

## Table of Contents

Agenda . . . . .	4
Request for Revocation of the Drinking Establishment/Restaurant Liquor Licenses for Big C Enterprises, LLC, dba Doobley's at 767 North West Street and Doobley's at 2415 West 31st Street South, in Wichita, Kansas. (Districts IV and VI)	
Agenda Report No. IV-1. . . . .	11
Club Revocation Letter to Doobley[1]. . . . .	13
Request for Hearing[1] . . . . .	15
Public Hearing and Tax Exemption Request, Cargill Inc. (District I)	
Agenda Report No. IV-2. . . . .	18
Notice of Public Hearing . . . . .	20
Economic Development Incentives Agreement - Cargill 2011. . . . .	21
Ordinance No. 49-041. . . . .	28
Gov Bodies Notice . . . . .	31
Cargill Meat Solutions, Inc. Franchise. (District VI)	
Agenda Report No. IV-3. . . . .	32
Ordinance No. 49-045. . . . .	33
Drawing for # 2 . . . . .	42
Wichita Transit Budget Options.	
Agenda Report No. IV-4. . . . .	43
2012 Annual Operating Budget and 2011 Budget Revisions.	
Agenda Report No. IV-5. . . . .	45
Wichita Early Retirement Incentive Program . . . . .	48
Publication Notices 2012 Budget . . . . .	51
Ordinance No. 49-046 General Tax Levy . . . . .	56
Ordinance No. 49-047 SSMID . . . . .	58
Ordinance No. 49-048 East Bank. . . . .	62
Ordinance No. 49-049 Old Town Cinema. . . . .	65
Ordinance No. 49-050 21st and Grove . . . . .	68
Ordinance No. 49-051 Northeast Redevelopment . . . . .	71
Ordinance No. 49-052 Gilbert and Mosley . . . . .	74
Ordinance No. 49-053 Northeast Ind Corr . . . . .	79
Resolution No. 11-175 . . . . .	84
Ordinance Amending Chapter 3.22 of the Code of the City of Wichita Pertaining to Licensing and Regulation of Haunted Houses and Haunted Walks/Fields.	
Agenda Report No. IV-6. . . . .	85
Ordinance No. 49-042. . . . .	87
Delineated Ordinance. . . . .	106
Statement of Costs. (See Attached)	
Statement of Costs . . . . .	126

Partial Acquisition of Vacant Land Located in the 14000 Block of  
West Kellogg for the West Kellogg Freeway Project. (Districts IV  
and V)

Agenda Report No. II-5a . . . . .	128
Real Estate Purchase Agreement, Aerial Map and Tract Map . . . . .	129
Contracts and Agreements June 2011.	
Agenda Report No. II-7 . . . . .	136
Collateral Assignment of DSW Broadview Industrial Revenue Bonds, DSW Broadview, LLC. (District VI)	
Agenda Report No. II-8 . . . . .	137
Bond Pledge Agreement-DSW . . . . .	139
Assignment of Lease-DSW . . . . .	150
Assignment of Management Agreement-DSW . . . . .	157
Assignment of Option-DSW. . . . .	162
Resolution No. 11-171 . . . . .	168
Multi-Use Path along the Arkansas River from Garvey Park to Planeview Park. (District III)	
Agenda Report No. II-9 . . . . .	170
Resolution No. 11-172 . . . . .	172
Map . . . . .	173
Prisoner Re-entry Program Memorandum of Agreement.	
Agenda Report No. II-10 . . . . .	174
MOA . . . . .	175
Approval of Offers for the Improvement of the Bridge on Broadway near 34th Street South. (District III)	
Agenda Report No. II-11 . . . . .	185
Broadway Bridge Acquisition Approval . . . . .	186
Affordable Airfares Funding Agreement with Sedgwick County.	
Agenda Report No. II-12 . . . . .	187
Acquisition by Eminent Domain of Tracts Required for the Pawnee and Broadway Intersection Improvement Project. (District III)	
Agenda Report No. II-13 . . . . .	189
Resolution No. 11-173 . . . . .	190
Ordinance No. 49-043. . . . .	191
Tract List . . . . .	195
Acquisition by Eminent Domain of Tracts Required for the Harry and Broadway Intersection Improvement Project. (Districts I and III)	
Agenda Report No. II-14 . . . . .	196
Ordinance No. 49-044. . . . .	197
Resolution No. 11-174 . . . . .	200
Tract List . . . . .	201
List of Second Reading Ordinances. (See Attached)	
Second Reading Ordinances . . . . .	202

\*SUB2010-00027 -- Plat of Steinke Addition located south of  
47th Street South on the west side of 151st Street West.  
(County)

Agenda Report No. II-16 . . . . .	204
No Protest Petition . . . . .	206

**FINAL**  
CITY COUNCIL  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. July 19, 2011

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
  - Invocation
  - Pledge of Allegiance
  - Approve the minutes of the regular meeting on July 12, 2011
- 

**AWARDS AND PROCLAMATIONS**

- Special Presentation:  
Eagle Scout Project – Municipal Court Benches
- Proclamations:  
USA Track & Field Junior Olympic National Championship Proclamation  
Kansas All-Star Football Shrine Bowl Day
- Award:  
Mariana Boys Home Presentation

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a “first-come, first-served” basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

None

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## **II. CONSENT AGENDAS (ITEMS 1 THROUGH 16)**

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)*

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## **COUNCIL BUSINESS**

### **III. UNFINISHED COUNCIL BUSINESS**

None

### **IV. NEW COUNCIL BUSINESS**

1. Request for Revocation of the Drinking Establishment/Restaurant Liquor Licenses for Big C Enterprises, LLC, dba Doobley's at 767 North West Street and Doobley's at 2415 West 31st Street South, in Wichita, Kansas. (Districts IV and VI)

RECOMMENDED ACTION: Revoke the Drinking Establishment/Restaurant liquor licenses currently held by Robert Crandell for both Doobley's locations.

2. Public Hearing and Tax Exemption Request, Cargill Inc. (District I)

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the ordinance granting Cargill, Inc. a 100% tax exemption on the identified real property improvements for a five year term, plus a 100% tax exemption for a second five-year term, subject to City Council review.

3. Cargill Meat Solutions, Inc. Franchise. (District VI)

RECOMMENDED ACTION: Approve the first reading of the contract franchise ordinance between the City and Cargill Meat Solutions, Inc. and authorize the necessary signatures.

4. Wichita Transit Budget Options.

RECOMMENDED ACTION: Approve option 5 to increase fixed route base fares by 50¢ and paratransit van fares by \$1.

5. 2012 Annual Operating Budget and 2011 Budget Revisions.

RECOMMENDED ACTION: Set the public hearing on the Proposed 2012 Budget (including the Tax Increment Financing Districts and the Self-Supporting Municipal Improvement District) and the revised 2011 Budget for August 9, 2011; authorize publication of the formal public hearing notice; approve first reading of the general budget, TIF district, and SSMID ordinances; set a maximum amount of taxes levied (\$101,996,852) based on an anticipated mill levy of 32.272 mills (no change from the current mill levy) and an estimated assessed valuation of \$3.161 billion; and approve the early retirement program.

6. Ordinance Amending Chapter 3.22 of the Code of the City of Wichita Pertaining to Licensing and Regulation of Haunted Houses and Haunted Walks/Fields.

RECOMMENDED ACTION: Approve first reading of the ordinance amending Chapter 3.22 of the Code of the City of Wichita pertaining to haunted houses and haunted walks/fields.

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**COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

**PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

**V. NON-CONSENT PLANNING AGENDA**

None

**HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Fern Griffith, Housing Member is also seated with the City Council.

**VI. NON-CONSENT HOUSING AGENDA**

None

**AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**VII. NON-CONSENT AIRPORT AGENDA**

None

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**COUNCIL AGENDA**

**VIII. COUNCIL MEMBER AGENDA**

None

**IX. COUNCIL MEMBER APPOINTMENTS**

1. **Board Appointments.**

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 16)

**II. CITY COUNCIL CONSENT AGENDA ITEMS**

1. Report of Board of Bids and Contracts dated July 18, 2011.

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>New</u>	<u>2011</u>	<u>(Consumption on Premises)</u>
Marvin Alvarez	Habanero Mexican Grill*	2308 South Meridian
<u>New</u>	<u>2011</u>	<u>(Consumption off premises)</u>
Lori Cottrell	Walmart Store #5991***	3137 South Seneca Street
Farzana Mojumder	KC Gas & Grocery***	1161 North Broadway
<u>Renewal</u>	<u>2011</u>	<u>(Consumption on premises)</u>
Hanh Van Bui	Saigon Restaurant*	1103 North Broadway
<u>Renewal</u>	<u>2011</u>	<u>(Consumption off premises)</u>
Gurinderpal Sira	Mideast Corporation dba Flying Eagle2***	6330 East 21st North
Mandeep Sira	Mideport Corporation dba Flying Eagle 1***	277 South Ridge Road

\*General/Restaurant 50% or more gross revenue from sale of food.

\*\*\*Retailer grocery stores, convenience stores, etc.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates:

- a. Preliminary Estimates. (See Attached)

RECOMMENDED ACTION: Receive and file.

4. Statement of Costs:

- a. Statement of Costs. (See Attached)

RECOMMENDED ACTION: Approve and file.

5. Property Acquisition:

- a. Partial Acquisition of Vacant Land Located in the 14000 Block of West Kellogg for the West Kellogg Freeway Project. (Districts IV and V)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.



6. Minutes of Advisory Boards/Commissions

Joint Investment Committee, June 2, 2011.

RECOMMENDED ACTION: Receive and file.

7. Contracts and Agreements June 2011.

RECOMMENDED ACTION: Receive and file.

8. Collateral Assignment of DSW Broadview Industrial Revenue Bonds, DSW Broadview, LLC. (District VI)

RECOMMENDED ACTION: Adopt the Resolution authorizing the execution of the Bond Pledge Agreement, the Collateral Assignment of Lease, the Collateral Assignment of Management Agreement and the Collateral Assignment of Purchase Option.

9. Multi-Use Path along the Arkansas River from Garvey Park to Planeview Park. (District III)

RECOMMENDED ACTION: Approve the revised project budget, adopt the amending resolution and authorize the signing of State/Federal agreements as required.

10. Prisoner Re-entry Program Memorandum of Agreement.

RECOMMENDED ACTION: Approve the MOA and authorize the appropriate signatures.

11. Approval of Offers for the Improvement of the Bridge on Broadway near 34th Street South. (District III)

RECOMMENDED ACTION: Approve the offers and authorize the necessary signatures.

12. Affordable Airfares Funding Agreement with Sedgwick County.

RECOMMENDED ACTION: Approve the contract and authorize the necessary signatures, and authorize any necessary budget adjustments.

13. Acquisition by Eminent Domain of Tracts Required for the Pawnee and Broadway Intersection Improvement Project. (District III)

RECOMMENDED ACTION: Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property; and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisition.

14. Acquisition by Eminent Domain of Tracts Required for the Harry and Broadway Intersection Improvement Project. (Districts I and III)

RECOMMENDED ACTION: Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property; and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisitions.

15. Second Reading Ordinances: (First Read July 12, 2011)

- a. List of Second Reading Ordinances. (See Attached)

RECOMMENDED ACTION: Adopt the Ordinances.

**II. CONSENT PLANNING AGENDA ITEMS**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

16. \*SUB2010-00027 -- Plat of Steinke Addition located south of 47th Street South on the west side of 151st Street West. (County)

RECOMMENDED ACTION: Approve the document and plat and authorize the necessary signatures.

**II. CONSENT HOUSING AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

None

**II. CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

None

City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Request for Revocation of the Drinking Establishment/Restaurant Liquor Licenses for Big C Enterprises, LLC, dba Doobley's at 767 North West Street and Doobley's at 2415 West 31<sup>st</sup> Street South, in Wichita, Kansas (Districts IV and VI)

**INITIATED BY:** Wichita Police Department

**AGENDA:** New Business

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**Recommendation:** Based on evidence presented, revoke, suspend, assess a fine against the licensee or take no action against one or both of the liquor licenses for premises located at 767 North West Street and 2415 West 31<sup>st</sup> Street South, Wichita, Kansas, both known as Doobley's.

**Background:** On June 1, 2010, Wichita Police were summoned to an assault call at the Doobley's club at 767 North West Street. When officers arrived they found a severely beaten victim with life threatening injuries. This victim was transported to the hospital and later discovered to have a brain hemorrhage. During the subsequent investigation, the club licensee and the bar manager made false statements to police who were trying to determine what had happened. This action delayed and hindered the police investigation. As a result, both the licensee and bar manager were charged with crimes in Sedgwick County District Court. Robert Crandell is the licensee of both Doobley's locations. Mr. Crandell pled guilty to a charge of Obstruct Legal Process in Sedgwick County District Court on October 12, 2010. The manager of Doobley's at 767 North West Street also pled guilty to the same offense on March 14, 2011.

**Analysis:** Section 4.16.090(b) provides that, "...any crime involving...moral turpitude on premises where alcoholic liquor is sold by such licensee" qualifies for a revocation of a liquor license by the City Council. Section 4.04.010(m) defines a crime of moral turpitude as a crime involving dishonesty. The sole basis for action to be taken against Mr. Crandell's liquor licenses is the fact that he has been convicted of the crime of Obstruct Legal Process which involved dishonesty due to him making false statements to the police in the course of a criminal investigation. While the ordinance provides a range of options with regards to City Council action, the police department is recommending revocation of the licenses at both of Mr. Crandell's establishments. This recommendation is due to the severity of the crime as well as the victim's injuries and the obstruction to the investigation thereof that resulted from Mr. Crandell's false statements.

**Financial Considerations:** There are no financial considerations.

**Goal Impact:** Provide a Safe and Secure Environment by enforcing City ordinances regarding proper operations of clubs and drinking establishments.

**Legal Considerations:** Section 4.16.090(b) of the City Code provides that the City Council, upon five day's notice to a person holding a license to sell alcoholic liquor, may recommend one of five options. These options are: (1) assess a fine not to exceed \$500; (2) assess a suspension for a period not to exceed 30 days; (3) assess such fine and suspension; (4) revoke such license; or (5) do nothing. Since Mr. Crandell holds two liquor licenses on two separate locations, these options may be exercised as to one or both of his establishments. Based upon the evidence presented, the option deemed most appropriate by the City Council may be imposed. If any action is taken against one or both of Mr. Crandell's licenses, he has the further option of appealing to the District Court pursuant to state statute. However, any appeal

taken from an order suspending or revoking a license shall not suspend such order during the pendency of the appeal.

**Recommendation/Action:** It is recommended that the City Council revoke the Drinking Establishment/Restaurant liquor licenses currently held by Robert Crandell for both Doobley's locations.

**Attachments:** Club Revocation letter to Doobley's.

Robert Crandell  
8001 E. Peachtree  
Wichita Kansas 67207

June\_\_\_\_, 2011

Mr. Crandell:

On June\_\_\_\_, 2011 the Wichita City Council will hold a hearing regarding the Wichita Police Department's request for the revocation of the Drinking Establishment/Restaurant (DE/R) licenses for Doobley's, located at 767 N. West and 2415 W. 31<sup>st</sup> Street South. The basis of the revocation is City of Wichita ordinance 4.90.090(b)(9) which prohibits crimes of moral turpitude on the licensed premises where alcoholic liquor is sold.

At 1:26 a.m. on June 1, 2010, Wichita Police officers responded to a 911 call of a man down in front of 779 N. West. The officers located Randolph Johns who appeared to have been severely beaten. Johns was transported to St. Francis where it was determined he had a brain bleed in a frontal lobe. The investigation into the battery shows that your manager, Kristina Jones, had been told by Jordan Bobo that he had "knocked an old man out in the parking lot." Jones said "we'll take care of it." Officers also contacted you inside Doobley's and interviewed you. During this interview you stated that Johns had just arrived at the bar and that you called a taxi for Johns. The investigation concluded that Johns had been drinking inside Doobley's for some time prior to the battery. Due to your deceptive statements to the investigating officers you were charged with Obstruct Legal Process, a misdemeanor criminal offense. You pled guilty to that charge in Sedgwick County District Court on 10-12-10.

Wichita City Ordinance 4.16.090(b)(9) provides for a revocation of liquor license for "any crime involving a morals charge or moral turpitude on premises where alcoholic liquor is sold."

According to City Ordinance, the Wichita City Council may, upon five days written notice, revoke a liquor license a violation of Wichita City Ordinance 4.16.090(b)(9). Wichita City Ordinance 4.16.090(e) states "Within twenty days after the order of the City Council revoking or suspending any license, the licensee may appeal from such order to the district court in the manner as provided by law; provided that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of such appeal."

Feel free to contact the administrative vice detective with questions concerning this matter at 268-4280.

Sincerely,

Norman D. Williams  
Chief of Police

7.12-11

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RECEIVED

June 28, 2011

JUN 28 '11  
via hand delivery  
CITY CLERK OFFICE

Wichita City Clerk and City Council  
City Hall, 13<sup>th</sup> Floor  
MS 1-13  
455 N. Main  
Wichita, KS 67202

Hand Delivered June 28, 2011

**Re: Request for hearing regarding revocation of Drinking Establishment Restaurant Licenses for Doobley's Irish Pirate Tavern (South), 2415 W. 31st Steet South, Wichita, KS 67217 and 767 N. West Street, Wichita, KS.**

Dear Wichita City Council or To Whom It May Concern:

To the extent one is needed, this letter shall serve as a formal request for a hearing in front of the Wichita City Council regarding the revocation of Doobley's Irish Pirate Taverns (hereinafter "Doobley's") Drinking Establishment/Liquor licenses for both Wichita Doobley's locations at 2415 W. 31st Steet South, Wichita, KS 67217 and 767 N. West Street, Wichita, KS. The owner of the establishments, Mr. Robert Crandell, received a letter dated June 20, 2011 from the Chief of Police Norman Williams stating there will be a hearing July 12, 2011 regarding the requested revocation of the licenses.

According to the letter, the revocations are based on the conviction of Mr. Crandell under K.S.A. 21-3808(a)(2) for "Obstructing Legal Process" a *misdemeanor criminal offense for which the Sedgwick County District already imposed punishment*. The Wichita Police Department is now unreasonably considering "Obstructing Legal Process" a "crime of moral turpitude" on the premises. The City Council should note that the Wichita Police Department attempted to deny the renewal of the liquor license for the same reason just 3 months ago in March 2011, but reversed itself and the City granted the renewal. Now that the City granted the license, WPD is trying to revoke the newly granted license.

WPD is attempting to revoke the license of both establishments even though the alleged crime only occurred on the premises of one Doobley's at 767 N. West Street, Wichita, KS. The ordinance alleged to have been violated (Wichita City Ordinance § 4.16.090 (9)) states that a license may be revoked for "any crime involving ...moral turpitude on premises". Consequently, this hearing should be limited to the license for Doobley's at 767 N. West Street.

A "crime of moral turpitude" is defined by Wichita City Ordinance 4.04.10 (m) as "a crime involving dishonesty." The Journal Entry finding Mr. Crandell guilty does not make any findings of fact. Consequently, there is nothing in the court record that either indicates the factual basis for the conviction or a factual basis for concluding obstructing legal process is a "crime of dishonesty." The Journal Entry of Judgment finding Mr. Crandell guilty does not specify in any way that Mr. Crandell committed a crime of dishonesty of any type. Consequently, for Obstructing Legal Process to be a crime of dishonesty in of it self, the mere conviction of it must indicate such a crime, such as theft, fraud or robbery.

K.S.A. 21-3808 defines obstructing legal process or legal duty as follows:

(a) Obstructing legal process or official duty is knowingly and intentionally obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

(2) Obstructing legal process or official duty in a case of misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case is a class A nonperson misdemeanor.

Clearly, K.S.A. 21-3808 does not say that the crime is a crime of dishonesty or a crime that involves dishonesty in any way. It does not even mention the word dishonesty. Consequently, obstructing legal process is not in of itself a "crime of dishonesty" that would qualify under the City's own definition set forth in Wichita City Ordinance §4.04.10 (m).

Mr. Crandell is a young disabled businessman who suffered a stroke several years ago. He plead to the alleged misdemeanor offense of Obstructing Legal Process to avoid the costs, expenses and stress of going to trial. He never would have accepted the plea if he knew it would deprive him of his livelihood and only means of financial support.

Accordingly, Mr. Crandell and both Doobley's respectfully request the City Council to hold a hearing regarding this unlawful revocation which is a clear deprivation of his fundamental constitutional right to due process. The City Council can dismiss the case and not revoke the license, impose a fine not to exceed \$500, or impose the fine and/or a suspension not to exceed 30 days, or approve the revocation. For the reasons, stated above, Mr. Crandell would ask that the City Council dismiss the case.

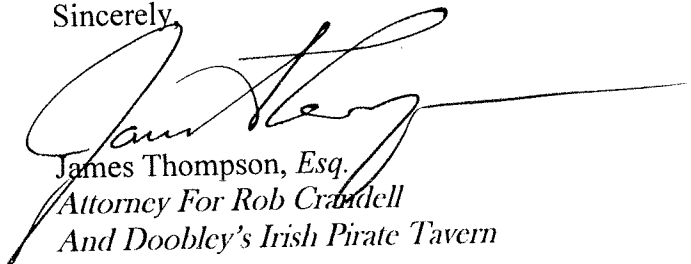
Please be sure to inform your police department that the license will remain in place pending the hearing.

Please provide whatever information, including all documents, the Wichita Police



Department or any other department relied upon to make this decision to attempt to revoke the liquor licenses of both Doobley's. In addition, please provide a list of witnesses, if any, that the Wichita Police Department may use to present their case to the City Council. Finally, please provide a copy of the "green sheet" to be provided to the City Council. If you have any other questions or concerns, please feel free to contact me at the number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "James Thompson", with a long horizontal flourish extending to the right.

James Thompson, Esq.  
*Attorney For Rob Crandell  
And Doobley's Irish Pirate Tavern*

cc: Rob Crandell

City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Tax Exemption Request (Cargill, Inc.) (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

---

**Recommendation:** Close the public hearing and place the Ordinance on first reading.

**Background:** In early 2010, Cargill Meat Solutions Corporation (Cargill) approached the City of Wichita and the Greater Wichita Economic Development Coalition (GWEDC) with a request for incentives relative to a relocation opportunity for the Cargill Meat Solutions Research and Development (R&D) operation. The existing R&D facility, located at 29<sup>th</sup> Street North and Mead in the North Industrial Corridor, did testing and innovation projects relating to Cargill's meat products for clients throughout the U.S. The facility housed a professional kitchen and employed sixty-four food research professionals and support staff. The R&D facility was located in a former meat packing plant that was far larger than needed and did not offer a suitable setting for this type of activity. At the time, Cargill was looking at opportunities at other Cargill facilities throughout the country including Wichita. GWEDC worked with City and County staff to develop an incentive offer to secure the facility in downtown Wichita.

After submitting a letter of intent to the City, Cargill is now requesting approval of an Economic Development Tax Exemption ("EDX") on the construction of a building addition and newly acquired equipment in conjunction with the expansion project.

**Analysis:** Cargill chose a location for their new R&D facility in downtown Wichita at First and Wichita Street, near the national corporate headquarters for Cargill Meat Solutions at 151 North Main. This location allows the R&D facility to become a more integral part of their main operation, provides an attractive showcase for clients, and also allows the downtown employees to participate in some of the food testing. The center includes laboratories focusing on food safety and quality research and development, new product development, packing innovations, and the testing of processing equipment.

The new R&D facility is a 70,000 square foot facility allowing Cargill to upgrade its customer experience and provide further employment in the downtown core. Cargill has invested approximately \$16 million in construction and machinery and equipment. The existing sixty-four employees will relocate to the new downtown facility and Cargill plans to add ten new employees over the next five years. The average salary for the facility will be \$73,400 per year. This facility also will serve as the primary facility for internal and external training needs. The conference center in this facility will host the training of at least thirty people per month. At least two-thirds of the people to be trained would be coming in from outside of Wichita.

The downtown center replaces a 210,000-square-foot building at 2901 North Mead, acquired by Cargill in 1978.

Cargill also has completed improvements on the first floor of the North Main facility installing a state-of-the-art test kitchen for testing of the products.

On June 15, 2010, the City Council approved alley and sidewalk improvements adjacent to the site totaling approximately \$132,000. The City also offered a 100% five-plus-five year tax abatement on the new facility. Cargill will be utilizing the Economic Development Exemption (EDX) program and is now requesting final approval since the facility is complete.

Sedgwick County has offered Cargill a forgivable loan of \$40,000 to offset the costs of relocating the R&D facility to downtown Wichita. The State of Kansas has offered Cargill an incentive package that includes a forgivable loan, training grant assistance, enterprise zone tax credits and sales tax exemptions valued at \$1,800,000. In addition the Kansas Bioscience Authority has offered Cargill a five-year \$750,000 grant for the innovation provided in food science.

Under the Economic Development Incentive Policy, Cargill is eligible for a 100%, 5+5-year property tax abatement based on the combined investment and job creation commitment.

**Financial Considerations:** Based on the 2010 mill levy, the estimated taxable value of exempted property for the first full year is approximately \$390,192. The value of the 100% real property tax exemption as applicable to taxing jurisdictions is:

City	\$ 104,884	State	\$ 4,875
County	\$ 95,417	USD 259	\$ 185,016

Wichita State University's Center for Economic Development and Business Research performed a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	1.35 to one
City of Wichita – General Fund	1.09 to one
City of Wichita – Debt Service	2.00 to one
Sedgwick County	1.31 to one
USD 259	1.00 to one
State of Kansas	10.36 to one

**Goal Impact:** Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

**Legal Considerations:** The Law Department has approved the attached ordinance and Economic Development Incentive Agreement as to form.

**Recommendations/Actions:** It is recommended that City Council close the public hearing, and approve first reading of the ordinance granting Cargill, Inc. a 100% tax exemption on the identified real property improvements for a five year term, plus a 100% tax exemption for a second five-year term, subject to City Council review.

**Attachments:** Ordinance, Economic Development Incentive Agreement

\_\_\_\_\_PUBLISHED IN THE WICHITA EAGLE ON \_\_\_\_\_

**NOTICE OF PUBLIC HEARING FOR  
GRANTING AN AD VALOREM TAX  
EXEMPTION FOR ECONOMIC  
DEVELOPMENT PURPOSES  
BY THE CITY OF WICHITA**

Public notice is hereby given that the governing body of the City of Wichita, Kansas will conduct a public hearing in connection with the granting by the City of Wichita, Kansas of a tax exemption for Economic Development purposes to Cargill Meat Solutions Corporation. Such hearing will be held on July 19, 2011, at 9:00 a.m., or as soon thereafter as possible, in the Council Chambers at City Hall, 455 North Main, Wichita, Kansas 67202.

Said tax exemption is proposed to be granted by the City for the construction of a building and purchase of certain manufacturing/research and development equipment under the authority of Article 11, Section 13, of the Kansas Constitution. Cargill Meat Solutions Corporation is located at 300 West 1<sup>st</sup> Street North in southwest Wichita. The governing body of the City will not adopt an Ordinance authorizing the exemption of ad valorem taxes until said public hearing has been concluded.

A copy of this notice, together with a copy of the proposed Ordinance for the governing body of the City to grant such ad valorem tax exemption is on file in the office of the City Clerk and is available for public inspection during normal business hours. In the event that said tax exemption is not ultimately put into effect for any reason, the City of Wichita, Kansas, shall not be deemed to have assumed or incurred any liability or obligation to Cargill Meat Solutions Corporation, or any other party by virtue of the above mentioned Ordinance or by virtue of any proceedings or actions taken in connection therewith.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place specified. If, for any reason, the matter is continued from the time and place specified in this notice, said matter shall be heard at the time and date established by the City Council at the time set for the hearing as specified in this notice.

# **Economic Development Incentive Agreement**

**THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT** (the “Agreement”) is made and entered into on this \_\_\_\_ day of July, 2011, by and between the City of Wichita, Kansas, hereinafter referred to as the “City,” and Cargill Meat Solutions Corporation hereinafter referred to as the “Company.”

**WHEREAS**, the Company currently operates a facility in Wichita, Kansas, for research and development related to meat products, and, as of September 1, 2011 will have completed an expansion by constructing and equipping an expansion to their facility; and

**WHEREAS**, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

**WHEREAS**, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

**WHEREAS**, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

**WHEREAS**, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

**WHEREAS**, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

**NOW, THEREFORE**, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:
  - A. By September 1, 2011, the Company will have completed the construction of a new facility at its manufacturing facility, located at 300 W. 1<sup>st</sup> Street North, Wichita, Kansas, at a cost of approximately \$13,000,000, to be used exclusively for the purposes of research and development;
  - B. Maintain, throughout the period from the date of this Agreement to July 1, 2016, employment of not less than sixty-four (64) employees at the existing facility;
  - C. On or prior to July 1, 2016, the Company will add an additional ten (10) new jobs at the new research and development facility, and thereafter,

maintain employment of not less than one hundred seventy-four (74) employees at combined manufacturing facility, through at least December 31, 2021;

- D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 326;
- E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;
- F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;
- G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;
- H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,
- I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES.** The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.
3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the 70,000 square foot building constructed by the Company pursuant to Section 1.A., above, shall be entitled to a 100% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2012, and provided proper application is made therefor. It is the City's further intention that the building expansion shall be entitled to a 100% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2017 to December 31, 2021, subject to the approval, in 2016, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Court of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*
4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2021.
5. **INCORPORATION OF APPENDIX.** Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.
6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms

contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development  
Attn: Economic Development Administrator  
455 North Main, 13<sup>th</sup> Floor  
Wichita, Kansas 67202

and

Department of Law  
Attn: City Attorney  
455 North Main, 13<sup>th</sup> Floor  
Wichita, Kansas 67202

Company: Cargill Meat Solutions Corporation  
ATTN: James Pleis, Financial Controller  
151 N. Main  
Wichita, KS 67202  
316.291.2133

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Karen Sublett, City Clerk

CARGILL, INC.

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## **APPENDIX A**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

\_\_\_\_FIRST PUBLISHED IN THE WICHITA EAGLE ON JULY 29, 2011\_\_\_\_

ORDINANCE NO. 49-041

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF CARGILL MEAT SOLUTIONS CORPORATION, SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Cargill Meat Solutions Corporation, requests an ad valorem tax exemption on a proposed expansion project of 100% for a five-plus-five year term on the construction of a new building located on land owned by Cargill Meat Solutions Corporation; and

WHEREAS, Cargill Meat Solutions Corporation, has operated within the City for more than fifteen years as a meat products research and development operation; and

WHEREAS, Cargill Meat Solutions Corporation, proposes a \$13,000,000 expansion by the construction of a new building expansion to be located at 300 West 1<sup>st</sup> Street north in Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Caargill Meat Solutions Corporation, has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on July 19, 2011; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Cargill Meat Solutions Corporation is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a new building.

2. The construction of the expansion for which exemption is given occurred after July 12, 2011. No exemption will be given for construction which occurred before that date.

3. Such construction is to be used exclusively for research and development.

4. By such expansion, Cargill Meat Solutions will create new employment for 10 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a new building and acquisition of integrally-related machinery and equipment.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Cargill Meat Solutions Corporation is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for research and development.

2. Cargill Meat Solutions Corporation is hereby granted an ad valorem tax exemption of 100% for a five-year term on the construction of a building and 100% for a second five years, subject to approval by the then current governing body, located within the Wichita City limits at 300 West 1<sup>st</sup> Street North in Wichita, at an estimated cost of \$13,000,000. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Cargill Meat Solutions Corporation may be required to repay amounts previously abated), in the event of any failure by Cargill Meat Solutions Corporation, to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Cargill Meat Solutions Corporation is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of Cargill Meat Solutions Corporation and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Cargill Meat Solutions Corporation's written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated June 15, 2010 and as stated in Cargill Meat Solutions Corporation's annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Cargill Meat Solutions Corporation no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Cargill Meat Solutions Corporation has executed with the City.

7. The City Council may, at its discretion, require Cargill Meat Solutions Corporation to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Cargill Meat Solutions Corporation has executed with the City.

8. Upon finding that Cargill Meat Solutions Corporation has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Cargill Meat Solutions Corporation's expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this 26th\_ day of July, 2011.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf, City Attorney



**CITY CLERK'S OFFICE**  
**455 NORTH MAIN - 13TH FLOOR**  
**WICHITA, KS 67202**  
(316) 268-4529 FAX (316) 268-4519

July 7, 2011

Sedgwick County Clerk  
Sedgwick County Courthouse  
525 North Main  
Wichita, KS 67203

Clerk of the Board of Education  
of Unified School District #259  
201 N. Water  
Wichita, KS 67202

Pursuant to Article 11, Section 13 of the Kansas Constitution, you are hereby notified the City Council of the City of Wichita, Kansas, will consider a tax exemption request for Cargill Meat Solutions Corporation. This item will go before the City Council at its next regular Meeting held at 9:00 a.m., on July 19, 2011, in the City Council Chambers at City Hall, 455 North Main, Wichita, Kansas. The project qualifies, under the Economic Development Incentive Policy, for a 100% tax exemption of ad valorem real property taxes for five years, plus a 100% exemption for an additional 5 years subject to city council approval. However, the City Council, in its discretion, may grant a lesser or greater abatement. The property to be exempted is a newly constructed 70,000 square foot building and newly acquired manufacturing/research and development equipment located at 300 West 1<sup>st</sup> Street North, in downtown Wichita. The property is located within the territorial boundaries of Unified School District #259, Wichita, Sedgwick County, Kansas.

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Karen Sublett, City Clerk  
City of Wichita, Kansas

**City of Wichita  
City Council Meeting  
July 19, 2011**

**TO:** Mayor and City Council

**SUBJECT:** Cargill Meat Solutions, Inc. Franchise (District VI)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** New Business

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**Recommendation:** Adopt the contract franchise.

**Background:** Cargill Meat Solutions, Inc. wishes to enter into a franchise agreement with the City of Wichita in order for it to connect, by fiber optic, its facility at 300 W. First Street to its facility at 220 W. Douglas Street. In April 2011, Cargill Meat Solutions, Inc. entered into a franchise agreement to connect its facilities at 151 N. Market and 300 W. First Street.

**Analysis:** Any utility that makes commercial use of the public street right-of-way must have a franchise agreement with the City of Wichita in order to occupy this public space. A new franchise agreement between the City of Wichita and Cargill Meat Solutions, Inc. has been negotiated.

The agreement has a term of five years with options for two additional five year renewals. The agreement sets out requirements on the Cargill Meat Solutions, Inc. franchise relative to its use of the right of way.

**Financial Considerations:** Under this agreement, the City of Wichita receives a franchise fee from Cargill Meat Solutions, Inc. of \$2.50 per linear foot, per year. Additionally, Cargill Meat Solutions, Inc. will pay the City of Wichita a one-time application fee of \$1,000 and pay the publication costs of this ordinance.

**Goal Impact:** The project addresses the Economic Vitality and Quality of Life goals by cooperatively negotiating franchises with utilities as a necessary part of preserving the right of way for use by the public.

**Legal Considerations:** The franchise contract is consistent with the requirements and limitations of the 2002 Telecommunications Providers Act. This contract franchise has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council approve the first reading of the contract franchise ordinance between the City and Cargill Meat Solutions, Inc. and authorize the necessary signatures.

**Attachments:** Contract Franchise Ordinance and attachment A.



First Published in The Wichita Eagle on July 29<sup>th</sup>, 2011

ORDINANCE NO. 49-045

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, GRANTING TO CARGILL MEAT SOLUTIONS, INC., THE RIGHT AND PRIVILEGE TO CONSTRUCT, OPERATE, AND MAINTAIN A SECOND FIBER OPTIC TELECOMMUNICATION SYSTEM IN THE CITY OF WICHITA, KANSAS, AND PRESCRIBING THE TERMS OF SAID GRANT.

WHEREAS, The City of Wichita is the owner of certain public right-of way; and

WHEREAS, Cargill Meat Solutions, Inc., hereinafter referred to as “Cargill,” desires to use certain public right-of-way of the City of Wichita for the purpose of construction, maintenance, and operation of a fiber optic telecommunication system pursuant to the provisions of the laws of the State of Kansas; and

WHEREAS, the City of Wichita finds such use to be in the public interest and is willing to enter into an agreement to allow Cargill to use the public right-of-way for such purpose;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. **Definitions.** For purposes of this ordinance, the following words and phrases shall have the following meanings given herein:

“Cargill” or “Company” – Cargill Meat Solutions, Inc.

“City” – The City of Wichita, Kansas

“Cargill Facilities” – Telephone and telecommunication lines, conduits, wires, cables, pipes, poles, towers, vaults, and appliances, either under or above ground.

“Public improvement” – Any existing or contemplated public facility, building, or capital improvement project, including without limitation, streets, alleys, sidewalks, sewer, water, drainage, right-of-way improvement, and public projects.

“Public project” – Any project planned or undertaken by the City or any governmental entity for construction, reconstruction, maintenance, or repair of public facilities or public improvements, or any other purpose of a public nature.

“Right-of-Way” – Present and future streets, alleys, rights-of-way, and public easements, including easements dedicated in plats of the City of Wichita, Kansas.

SECTION 2. **Grant.** This ordinance shall pertain to Cargill’s construction, maintenance, and operation of Cargill Facilities for a fiber optic telecommunication system in the City in, through and along that right-of-way which is part of the route described in Attachment “A” hereto as contemplated by this ordinance on a non-exclusive basis for the full term hereof; subject, however, to the terms and conditions herein set forth.

The grant under this ordinance specifically excludes the right to provide local “telephone exchange service” as defined by 47 U.S.C. § 153(47) and open video systems or cable service as defined by the Telecommunications Act of 1996 to customers within the City, and further excludes the right within the City to provide local telecommunications services for a fee directly to the public or to such classes of users as to effectively make it available directly to the public. In the event that Cargill shall in the future provide such service or derive revenue from such service within the City of Wichita, Cargill shall apply to the City for the right and privilege to provide such service in accordance with the laws of the State of Kansas. Cargill represents that at the present time it is not providing such excluded services in the City of Wichita and has no expectation of providing such services.

SECTION 3. **Use of Right-of-Way.** In the use of right-of way under this ordinance, Cargill shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and is subject to all applicable laws, orders, rules and regulations adopted by governmental bodies now or hereafter having jurisdiction. In addition, Cargill shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City

relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, beautification, and other requirements on the use of the right-of-way and shall comply with the following:

- (a) Cargill's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way for any public purpose. Cargill shall coordinate the placement of the Cargill Facilities in a manner which minimizes adverse impact on public improvements, as reasonably determined by the City. Where placement is not otherwise regulated, the Cargill Facilities shall be placed with adequate clearance for such public improvements so as not to impact or be impacted by such public improvement
- (b) All earth, materials, sidewalks, paving, crossings, utilities, public improvements, or improvements of any kind injured or removed by Cargill in its activities under this ordinance shall be fully repaired or replaced promptly by Cargill at its sole expense and to the reasonable satisfaction of the City or any other adjacent owner thereof.
- (c) All Cargill Facilities constructed, reconstructed, or relocated in the right-of-way after the date hereof shall be placed underground unless otherwise agreed to by the City, and in steel conduit if located in the right-of-way and in rigid conduit if otherwise located on City owned property within the corporate limits of the City.
- (d) Cargill shall keep and maintain accurate records and as-built drawings depicting accurate horizontal and vertical location of all Cargill Facilities constructed, reconstructed, or relocated in the street right-of-way after the date hereof. All points of facilities shall be horizontally located from street centerline, or section or quarter section lines or corners. Vertical locations on all points of Cargill Facilities shall consist of elevations in either City datum or United States Geological Survey datum.
- (e) Prior to construction, reconstruction or relocation of any Cargill Facilities in the right-of-way, Cargill shall submit to the City Engineer for approval, plans and specifications of the proposed installation. Such approval shall not be unreasonably withheld, delayed or conditioned.

- (f) For a Public Project, Cargill shall cooperate promptly and fully with the City and take all measures necessary to provide accurate and complete information regarding the nature and locations, both horizontal and vertical, of the Cargill Facilities located within right-of-way when requested by the City or its authorized agents for a public project. Such location and identification shall be at the sole expense of Cargill, without expense to the City, its employees, agents or authorized contractors. Cargill shall have a person familiar with the Cargill Facilities who is responsible for timely providing information satisfying information needs of the City and other users of the right-of-way.
- (g) For a Public Project, Cargill shall promptly relocate or adjust any Cargill Facilities located in the right-of-way for a public project. Such relocation or adjustment shall be performed by Cargill, at its sole expense, without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules and regulations of the City not inconsistent with this ordinance pertaining to such.
- (h) It shall be the sole responsibility of Cargill to take adequate measures to protect and defend the Cargill Facilities in the right-of-way from harm or damage. If Cargill fails to accurately or timely locate the Cargill Facilities when requested, it has no claim for costs or damages against the City and its authorized contractors, or any other party authorized to be in the right-of-way, except to the extent such party is responsible for the harm or damage caused by its negligence or intentional misconduct.
- (i) Cargill shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair, or relocation of the Cargill Facilities which would require any street closure which reduces traffic flow to less than two lanes of moving traffic. Except in the event of an emergency, as reasonably determined by Cargill, no such closure shall take place without such notice and prior authorization from the City. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. In addition, all work performed in the traveled way of the right-of-way, or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and

otherwise protected. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guideline for Work Zone Traffic Control, unless otherwise agreed to by the City.

- (j) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the Cargill Facilities in the right-of-way shall be in accordance with applicable present and future federal, state, and City law and regulation, including but not limited to the most recent editions of the National Electrical Code, the National Electrical Safety Code, and the Fiber Optic Cable Installation Standard of the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this ordinance may be additional to or stricter than such minimum standards.
- (k) Cargill shall not lease or sublease (including, but not limited to, the lease of conduit space) or otherwise make available any of the Cargill Facilities in the right-of-way to any other entity without the express written consent of the City. The purpose of this provision is to allow and encourage the sharing of space in the right-of-way so long as sub-lessees or users are authorized by the City to use the right-of-way.

Nothing in this section is intended or shall be interpreted to eliminate Cargill's right to use the right-of-way for the purposes of this ordinance.

**SECTION 4. Indemnity and Hold Harmless.** Cargill shall hold and save the City, its officers, employees, agents, and authorized contractors on public improvements, harmless from and against all claims, damages, expense, liability, and costs including reasonable attorney's fees, which may be occasioned by Cargill in any manner, solely or in part, by Cargill's occupancy of the right-of-way, except to the extent otherwise specified in paragraph 3(h). In the event a claim shall be made or an action shall be instituted against the City growing out of such occupancy of the right-of-way by the Cargill Facilities, then upon notice by the City to Cargill, Cargill will assume liability for the defense of such actions at Cargill's cost, subject to the option of the City to appear and defend such actions, at its own cost.

**SECTION 5. Payments and Charges.** The payments herein provided shall be in lieu of all other licenses, taxes, charges, fees or impositions, except that the usual general property taxes and special ad valorem property taxes, permits and fees including charges for pavement cuts or other charges based on restoring the premises to their same condition, or charges outside the scope of the ordinance which are not in any way connected with telecommunications business, as such, will be imposed on Cargill, and are not covered by the payments herein.

**SECTION 6. Compensation to City.** Cargill shall pay to the City as compensation for the right and privilege granted in this ordinance a one-time fee in the amount of One Thousand and no/100 Dollars (\$1,000), payable on the effective date of this ordinance. In addition, Cargill shall pay an annual sum in the amount of Two and 50/100 Dollars (\$2.50) per linear foot for the right-of-way described in Attachment "A". Such annual payments shall be made on the anniversary date of the effective date each year thereafter. All payments shall include an additional charge of one and one-half percent (1 ½%) per month compounded daily retroactive to the date payment was due when made more than thirty days (30) after the due date. The City and Cargill may hereafter establish such periodic payment procedure as the parties mutually agree.

**SECTION 7. Attachment to Facilities.** Nothing in this ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or Cargill on the facilities of the other. If such attachments are desired by the City or Cargill, then a separate non-contingent agreement shall be prerequisite to such attachments.

**SECTION 8. Forfeiture of Grant and Privilege.** In case of failure on the part of Cargill, its successors and assigns, to comply with any of the provisions of this ordinance, or if Cargill, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this ordinance, Cargill, its successors and assigns, shall forfeit all rights and privileges granted by this ordinance and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City of Wichita shall carry out the following proceedings. Before the City proceeds to forfeit said ordinance, as in this section prescribed, it shall first serve a written notice upon Cargill, setting forth in detail

in such notice the neglect or failure complained of, and Cargill shall have ninety days (90) thereafter in which to comply with the conditions of this grant and privilege. If at the end of such ninety-day period the City deems that the conditions have not been complied with and that the ordinance is subject to cancellation by reason thereof, the City shall enact a repealing ordinance setting out the ground upon which said grant and privilege is to be canceled or terminated. If within thirty days (30) after the effective date of said repealing ordinance, Cargill shall have not instituted an action, in the Eighteenth Judicial District Court in Sedgwick County, Kansas, to determine whether or not Cargill has violated the terms of this ordinance and whether or not Cargill has is subject to cancellation by reason thereof, this ordinance shall be cancelled and terminated at the end of such thirty-day period. If within such thirty-day period, Cargill does institute an action, as above provided, to determine whether or not Cargill has violated the terms of this ordinance and that the ordinance is subject to cancellation by reason thereof and prosecutes such action to final judgment with due diligence, then, in that even, in case the court finds that the ordinance is subject to cancellation by reason of the violation of its terms, this ordinance shall terminate thirty days (30) after such final judgment is rendered. PROVIDED, however, that the failure of Cargill to comply with any of the provisions of this ordinance or the doing or causing to be done by Cargill of anything prohibited by or in violation of the terms of this ordinance shall not be a ground for the forfeiture thereof when such act or omission on the part Cargill is due to any cause or delay beyond the control of Cargill, its successors and assigns, or to bona fide legal proceedings.

**SECTION 9. Rights and Duties of Grantee upon Expiration of Ordinance.** Upon expiration of this ordinance, whether by operation of law, by lapse of time, by agreement between Cargill and the City, or by forfeiture thereof, Cargill shall have the right to remove from the right-of-way any and all of the Cargill Facilities within a reasonable time after such expiration, but in such event, it shall be the duty of Cargill immediately upon such removal, to restore the right-of-way from which said Cargill Facilities are removed, to as good condition as the same were before said removal was effected.

**SECTION 10. Term and Termination Date.** This ordinance shall be and remain in full force and effect for a period of five (5) years from the effective date thereof, unless sooner

terminated as herein provided. Cargill is granted the option to renew the rights granted in this ordinance for two (2) additional five (5) year terms subject to the re-negotiation of the provisions including compensation. Cargill shall give notice of the exercise of the option at least six (6) months prior to the expiration of the term. The renewal is subject to the provision of Section 16.

**SECTION 11. Right to Assign.** The rights granted by this ordinance inure to the benefit of Cargill, and any parent, subsidiary, affiliate or successor entity now or hereafter existing. The rights shall not be assignable without the express written consent of the governing body of the City, except Cargill may assign its rights under this ordinance to a parent, subsidiary, affiliate or successor entity without such consent. Any required consent is to be evidenced by an ordinance or resolution of the governing body of the City that fully recites the terms and conditions, if any, upon which consent is given.

**SECTION 12. Force Majeure.** Each and every provision hereof shall be subject to Acts of God, fires, strikes, riots, floods, war and other causes beyond Cargill's control.

**SECTION 13. Invalidity of Ordinance.** If any clause, sentence, or section of this ordinance shall be held to be invalid, it shall not affect the remaining provisions of this ordinance.

**SECTION 14. Effectiveness and Acceptance of Ordinance.** This ordinance shall not take effect or become in force until it shall have been read in full at three (3) regular weekly meetings of the governing body of the City of Wichita nor until and immediately after its final passage it shall be published in the official city paper once each week for two (2) consecutive weeks, and such ordinance shall not take effect or be in force until and after the expiration of sixty (60) days from the date of its final passage, nor if, pending the final passage and taking effect of said ordinance, an election shall be called as provided by law, in which event said ordinance shall not take effect or become in force until the same shall have been duly approved by the electorate.

Within sixty (60) days after the final passage and approval of this ordinance, Cargill shall file with the City Clerk of the City of Wichita its acceptance in writing of the provisions, terms



and conditions of this ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted the ordinance and acceptance shall constitute a contract between the City and Cargill subject to the provisions of the laws of the State of Kansas.

PASSED AND APPROVED by the City Council of the City of Wichita, Kansas this 26th day of July, 2011.

ATTEST:

CARL BREWER

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Mayor

KAREN SUBLETT

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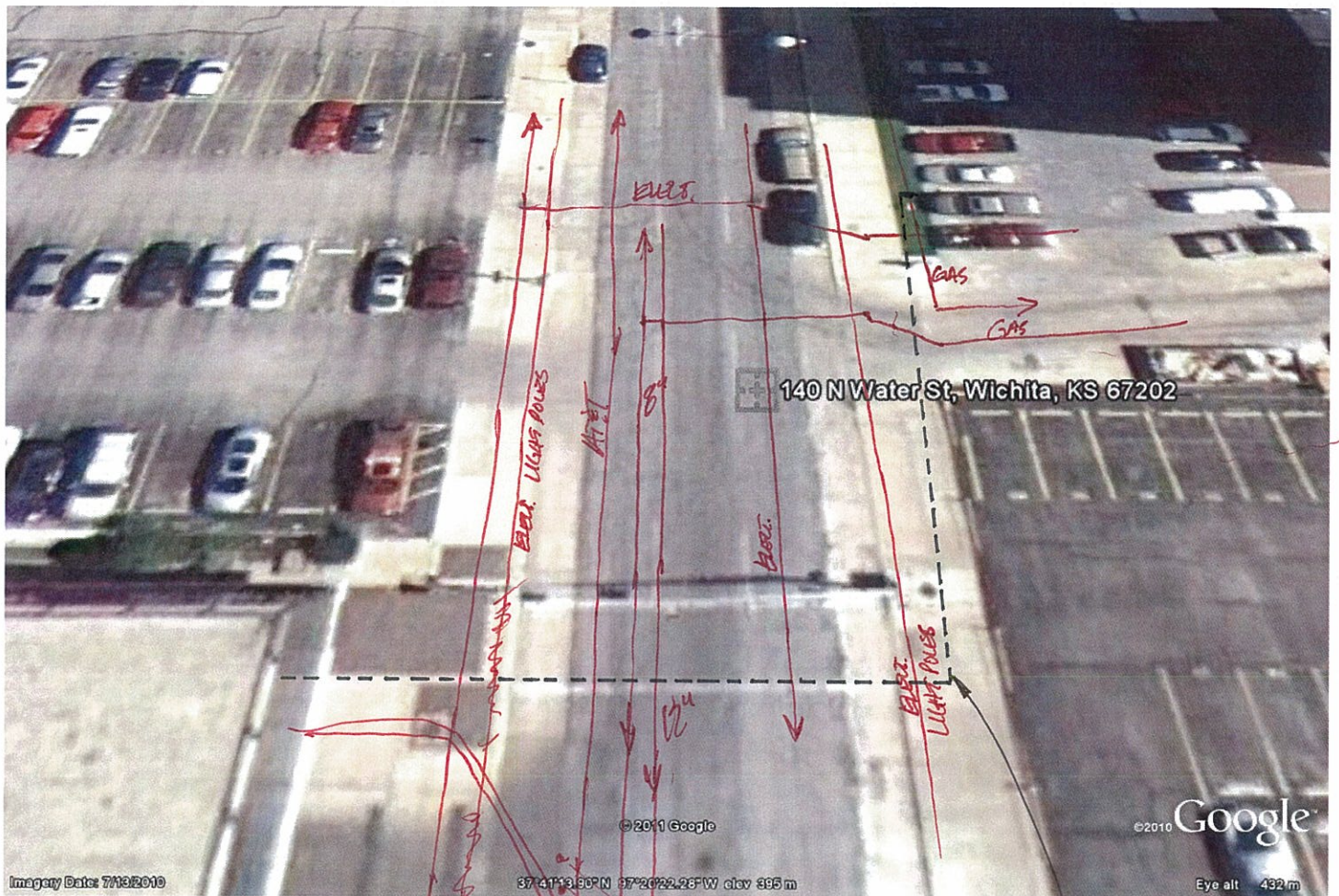
City Clerk

APPROVED AS TO FORM:

GARY E. REBENSTORF

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Director of Law



WATER & STORM SEWER  
NOT MARKED 6/30/11

FIBER ROUTE

ENTERS BELOW GRADE @  
SW CORNER OF BASEMENT PARKING  
GARAGE, THROUGH VAULT @ NE CORNER  
OF GARVEY CENTER.

City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council  
**SUBJECT:** Wichita Transit Budget Options (All Districts)  
**INITIATED BY:** Wichita Transit  
**AGENDA:** New Business

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**Recommendation:** Approve a 50¢ base fare increase for fixed route service and a \$1 base fare increase for paratransit service.

**Background:** The 2011-2012 Adopted Budget anticipated operating deficits in the Transit Fund. Since that time, higher fuel costs and legal settlements have exacerbated the Transit Fund outlook. Due to increased operating costs, staff has initially forecasted even greater negative fund balances in the Transit Fund during the City of Wichita budget planning period (2011-2013).

**Analysis:** To ensure that the Transit Fund maintains a positive balance, a number of options have been identified, which are summarized below. The options presented would result in a positive fund balance:

1. Eliminate Saturday service and increase fixed route fares by 50¢;

If Saturday service were eliminated, and fixed route fares increased by 50¢, from \$1.25 to \$1.75, staff anticipates a 6.4% decrease in ridership in addition to lost Saturday ridership. Approximately 182,000 rides were provided on Saturdays in 2010. There would be savings from decreased operating costs. Savings would be contingent on reduced staffing, in addition to buses and vans not operating on Saturdays;

2. Establish a flat rate base fare of \$1.65 for each bus boarded (eliminating transfers) and keep Saturday service;
3. Raise base fare to \$2.00, increase the price of a transfer to 75¢, and keep Saturday service;
4. Raise base fare to \$2.25, transfers remain 25¢, and keep Saturday service;
5. Raise base fare to \$1.75, transfers remain 25¢, and keep Saturday service. The Transit Fund revenue would be supplemented by year-end stop-loss transfers from the Permanent Reserve Fund to close the budget gap not covered by the 50¢ increase in base fares.

Options were presented at a public hearing of the Transit Advisory Committee on June 23, 2011. At the meeting, participants overwhelmingly opposed eliminating Saturday service. Most participants did recognize the need for additional fare increases. Subsequently, the City Council directed staff to reconsider options, with the goal of preserving Saturday service.

Based on City Council direction, option 5 was developed by staff and is recommended by Wichita Transit. This option would increase base fares 50¢. In addition, by reviewing back office administrative functions, such as bill processing and payment processes, staff believe savings up to \$100,000 annually are possible. Finally, as a stop-gap method of ensuring the Transit Fund balance remains positive, the Permanent Reserve Fund would be used to transfer funds to the Transit Fund as needed. This plan is designed as a short term plan, using non-recurring revenues, to bridge the Transit Fund to at least 2013.

A more comprehensive funding plan will be developed during the Transit Community Outreach Study taking place the second half of 2011.

Based on current projections, transfers from the Permanent Reserve Fund are estimated at \$380,000 in 2011 and \$325,000 in 2012. However, staff would anticipate making transfers as necessary to avoid a negative balance in the Transit Fund. Any amounts transferred each year will be reported to the City Council. Additional transfers may be necessary early in 2013; however, anticipated increases in State grant funds after July 1, 2013 should obviate the need for a net increase in transfers in 2013. When the Transit Fund regains a firmer financial footing (estimated in 2013 or 2014), the Transit Fund would be expected to re-pay any transferred amounts.

**Financial Consideration:** The 2012 Proposed Budget includes the plan to increase fares by 50 cents, and use the Permanent Reserve Fund to avoid Transit Fund violations of the Cash Basis Law.

**Goal Impact:** Continue operating transit at the current level to meet the City's goal of Ensuring Efficient Infrastructure by maintaining and optimizing public facilities and assets.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the proposed plan, including an increase in fixed route base fares by 50¢ and paratransit van fares by \$1 and transfers from the Permanent Reserve Fund to maintain a positive Transit Fund balance.

**Attachments:** None.

City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council  
**SUBJECT:** 2012 Annual Operating Budget and 2011 Budget Revisions  
**INITIATED BY:** Department of Finance *Levy Carpenter*  
**AGENDA:** New Business

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**Recommendations:** Set the public hearing date, authorize the notice, approve the resolution, and place the ordinances on first reading.

**Background:** The City Council has received the City Manager's Proposed 2011/2012 Budget (including tax increment financing districts). The Council will receive public comment at its weekly Council meetings.

**Analysis:** The proposed 2012 annual operating budget is \$549,313,783 including all Tax Increment Financing (TIF) Funds and the Self-Supporting Municipal Improvement District (SSMID) Fund. Interfund transactions and appropriated reserves increase this amount to \$692,314,874. The inclusion of expendable trust funds, as required by law, is an additional \$75,880,090 for a total of \$768,194,964. The estimated mill levy for this budget would be 32.272 mills, no change from the levy for the current 2011 Budget.

The General Fund property tax levy is \$78,292,824 (including a delinquency allowance) at an estimated 24.772 mills. The levy for the Debt Service Fund is \$23,704,028 (including a delinquency allowance) and is estimated at 7.500 mills.

There are a total of six TIF Funds included in the 2012 Proposed Budget. These include two environmental TIFs (Gilbert & Mosley and North Industrial Corridor) and four economic TIFs (East Bank, 21<sup>st</sup> & Grove, Old Town Cinema, and Northeast Redevelopment). The combined resources of the six TIF Funds are \$6,531,331, of which \$6,021,079 is derived from property tax increments.

The SSMID Fund is included in the proposed budget assuming an assessed valuation of \$95,257,713, a 3.4% decrease from the 2011 valuation. Assuming a mill levy rate of 5.963 mills (identical to the levy for the current 2011 Budget) and a delinquency factor of 6%, \$551,461 in property tax revenue net of delinquency will be collected for 2011. Factoring the revenue from prior year delinquencies (\$15,000), other revenue (\$52,612) and motor vehicle tax revenue (\$21,259) results in a total of \$622,810 in projected expenditures.

The dollar amounts for fund expenditures or taxes levied, after they are set in the published notice of hearings on the proposed budget, cannot be exceeded, although the City Council may determine subsequently to reduce the taxes levied or expenditure levels. Formal hearing and adoption of the budget is scheduled for August 9<sup>th</sup>. If subsequent actions result in an increase to budgeted expenditure levels, a process of re-publication, including additional public hearings and re-certifications will be required.

In addition to action on the 2012 Budget, it is requested that action be taken to amend last year's 2011 Adopted Budget – as contained in the current proposed budget submitted to the City Council. These increases in the 2011 budget are summarized as follows:

1. The **Cemetery Fund** increase of \$1,550 reflects an increase in the primary costs financed from this fund: mowing expenditures.
2. The **Permanent Reserve Fund** is increased by \$1,821,848. No expenditures were initially planned from this fund in the 2011 Adopted Budget, but in the 2011 Revised Budget the fund is appropriated, to provide the City Council with the legal flexibility to expend the entire fund balance at its discretion. Of the appropriation of \$1,821,848, a total of \$380,000 is estimated to be spent to back-stop the Transit Fund.
3. The **City/County Operations Fund** is increased by \$36,603. This is due to a position shift approved previously by City Council action. The increase does not affect contributions by Sedgwick County to this fund.
4. The **Old Town TIF Fund** is increased by \$62,248. This TIF district was liquidated in 2010. However, \$62,248 remains in the fund. This amount will be transferred to the County Treasurer, and distributed back to the appropriate taxing jurisdictions, and then the fund will be closed.
5. The **Fleet Fund** increase of \$659,002 reflects budgeting for higher fuel prices. Fuel expenditures first pass through the Fleet Fund, and are then charged to department budgets.
6. The **Sewer Fund** increase of \$772,110 reflects a technical adjustment due to a change in the allocation method of overhead costs between the Water and Sewer utilities. A similar amount is reduced from the Water Fund, concurrent with this shift.

The budget also includes a proposed early retirement program. Eligible City employees would be provided up to five years of health insurance at current applicable employee contribution rates as an incentive to retire early. Any vacated positions will be reviewed for possible eliminate, reclassification, or deferrals in filling. The budget includes an estimated savings of \$200,000 annually in the General Fund from this program. The program will be offered only to civilian employees in the Wichita Employees Retirement (WER) system.

**Financial Considerations:** Publication of the notice of formal hearing will set the maximum dollars that may be expended in each fund. The City Council may subsequently reduce expenditures required (and proposed tax dollars to be levied) but not increase them.

**Goal Impact:** The adoption of the annual budget provides the funding sources for services provided in each goal area.

**Legal Considerations:** State statutes require the City Council to publish notice of the public hearing scheduled for approval of the annual operating budget and for budget amendments of published funds. This publication must be made at least 10 days prior to the budget adoption public hearing. In addition, this publication must set the maximum proposed tax levies as well as the maximum proposed expenditures (including appropriated balances) from each certified fund. The 2012 Budget is scheduled to be adopted by the City Council on August 9, in compliance with state statute, and to allow the appropriate forms to be filed with the County Clerk by the statutory date of August 25th.

**Recommendations/Actions:** It is recommended that the City Council set the public hearing on the Proposed 2012 Budget (including the Tax Increment Financing Districts and the Self-Supporting Municipal Improvement District) and the revised 2011 Budget for August 9, 2011; authorize publication of the formal public hearing notice; approve first reading of the general budget, TIF district, and SSMID ordinances; set a maximum amount of taxes levied (\$101,996,852) based on an anticipated mill levy of 32.272 mills (no change from the current mill levy) and an estimated assessed valuation of \$3.161 billion; and approve the early retirement program.

**Attachments:**

Notice of budget hearing – Proposed Budget 2012 Expenditures  
Notice of budget hearing – Amending the 2011 Budget  
Notice of budget hearing – Proposed Budget 2012 Tax Increment Financing Funds (TIF)  
Notice of budget hearing – Amending the 2011 Tax Increment Financing Funds (TIF)  
Notice of budget hearing – Proposed Budget 2012 Expenditures - SSMID  
Ordinance – Fixing General Tax levy – City of Wichita  
Ordinance – Fixing General Tax Levy - Downtown Wichita Self Supported Municipal Improvement District  
Ordinance – East Bank Redevelopment TIF  
Ordinance – Old Town Cinema TIF  
Ordinance – 21<sup>st</sup> and Grove Redevelopment TIF  
Ordinance – Northeast Redevelopment TIF  
Ordinance – Gilbert and Mosley Site Redevelopment TIF  
Ordinance – North Industrial Corridor Redevelopment TIF  
Resolution – Wichita Early Retirement Incentive Program

## **WICHITA EARLY RETIREMENT INCENTIVE PROGRAM AGREEMENT, WAIVER AND RELEASE**

In consideration of the receipt of benefits under the Wichita Early Retirement Incentive Program (hereinafter “WERIP”), as described below, \_\_\_\_\_ [insert name] (hereinafter, “Early Retiree”) waives and hereby releases any and all rights or claims arising under local, state and federal law the Early Retiree may have against the City of Wichita (hereinafter “City”) at the time Early Retiree signs this agreement. Additional terms of this Agreement, Waiver and Release are as follows:

1. Early Retiree voluntarily accepts the City’s offer of WERIP to eligible employees to provide health insurance at the same premium paid by active employees of the City for five years or until Early Retiree is 65 years of age, whichever occurs first. The health insurance to be made available by the City to Early Retiree will be the same coverage (family or single) in which Early Retiree is enrolled at the time of retirement; changes in coverage may be permitted in limited circumstances as defined by the Internal Revenue Service. If the portion of the premium the employer pays is adjusted, City will pay the employer portion of Early Retiree’s health insurance, consistent with the amount the City pays for active employees. If Early Retiree fails to pay Early Retiree’s portion of the health insurance premium, the City’s obligations to pay any part of the premium is terminated.

2. Early Retiree is a participant in Plan 1 or Plan 2 of the Wichita Employees’ Retirement System for the City of Wichita and is eligible for normal or reduced retirement, and is therefore, eligible for WERIP.

3. By October 14, 2011, Early Retiree must designate a retirement date between November 1, 2011 and December 24, 2011 with the Department of Finance Pension Management Office.

4. Early Retiree must resign from employment with the City of Wichita effective the last day worked prior to the retirement date; if Early Retiree does not submit a resignation, this document will be deemed a resignation.

5. By signing this Agreement, Waiver and Release and not timely revoking it, Early Retiree hereby releases and discharges the City of Wichita, its employees, agents and representatives (hereafter collectively referred to as “Releasees”) from all claims and liabilities Early Retiree may have against Releasees as of the date of this Agreement. These claims and liabilities include, but are not limited to, claims for discrimination arising under federal, state and local law, including Title VII of the Civil Rights Act; the Americans with Disabilities Act (ADA); the Age Discrimination in Employment Act (ADEA); the Rehabilitation Act; the National Labor Relations Act (NLRA); the Employee Retirement Income Security Act of 1974 (ERISA); the Equal Pay Act; the Civil Rights Act of 1991; the Worker Adjustment and Retraining Notification Act of 1988; 42 United States Code Section 1981; the Family Medical Leave Act; the Sarbanes-Oxley Act of 2002; and the Kansas Act Against Discrimination (KAAD), all as may be amended from time to time, and all other federal, state and local civil



rights, fair employment and other laws. Early Retiree hereby agrees that Early Retiree intends to waive and release any rights Early Retiree may have under these and all other applicable laws, including the laws of contract and tort, but Early Retiree does not intend to, nor is Early Retiree waiving rights and claims that may rise under the ADEA after the date this Agreement is signed.

6. It is expressly understood that this waiver does not include claims for benefits under the WERIP, claims for worker's compensation which are pending or may arise before Early Retiree's resignation is effective, and any claims that may not be waived under state or federal law.

7. Early Retiree expressly states that the WERIP, as described herein, is sufficient consideration for the releases and waivers described.

8. Pursuant to the Older Workers Benefits Protection Act (OWBPA):

A. Early Retiree was offered this agreement on August 19, 2011 and was given forty-five (45) days or more to consider and accept the terms of this Agreement.

B. Early Retiree is advised to consult with an attorney about this Agreement before signing it.

C. To accept this Agreement, Waiver and Release, Early Retiree must sign and date this Agreement, return the signed original the Department of Finance Pension Management Office on the 12<sup>th</sup> floor of City Hall, by 5:00 p.m. on October 14, 2011. Once Early Retiree does so, Early Retiree will have seven (7) additional days from the date this Agreement is signed to revoke Early Retiree's acceptance (hereinafter "Revocation Period"). If Early Retiree decides to revoke this Agreement after signing and returning it, Early Retiree must provide to the Department of Finance Pension Management Office a written statement of revocation; it may be sent by fax, electronic mail or registered mail. If Early Retiree does not revoke this Agreement during the Revocation Period, the Agreement will take effect on the eighth (8<sup>th</sup>) day after the Agreement was signed.

9. It is expressly understood that this Agreement is a contract, and this Agreement is the entire agreement of the parties regarding Early Retiree's retirement from the City of Wichita, a voluntary benefit that Early Retiree is to receive in exchange for terminating from employment with the City of Wichita, and the release Early Retiree is giving to City of Wichita in exchange for the voluntary retirement benefit.

10. This Agreement is to be interpreted according to the laws of the state of Kansas. This Agreement will be binding on Early Retiree, the City of Wichita, their heirs, next of kin, successors, executors, administrators, and assigns, and that this Agreement shall inure to the benefit of the City of Wichita and the Releases being released by this Agreement.

BY SIGNING THIS AGREEMENT, I AM ACKNOWLEDGING THAT:

\*I HAVE BEEN ADVISED TO CONSULT AN ATTORNEY;

\*I HAVE HAD AN OPPORTUNITY TO OBTAIN LEGAL AND FINANCIAL  
ADVICE AND I UNDERSTAND THE CITY OF WICHITA IS NOT RESPONSIBLE  
FOR PROVIDING ME LEGAL OR TAX ADVICE;

\*I HAVE CAREFULLY REVIEWED AND CONSIDERED THIS AGREEMENT;

\* I UNDERSTAND THE TERMS OF THE AGREEMENT; AND,

\*I VOLUNTARILY AGREE TO THEM.

\_\_\_\_\_  
Early Retiree Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Early Retiree's name printed

\_\_\_\_\_  
Robert Layton  
City Manager  
City of Wichita

Date received by Pension Management Office: \_\_\_\_\_, 2011

Eligibility verified by Pension Management Office: \_\_\_\_\_, 2011

\_\_\_\_\_  
Barbara Davis  
Pension Manager

# NOTICE OF BUDGET HEARING

The governing body of the City of Wichita, Kansas will meet on the 9th day of August, 2011 at 9:00 A.M., in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers related to the proposed 2012 budget and proposed tax levy, and for considering amendments relating to the 2011 adopted operating budget. Detailed budget information is available at the City of Wichita Department of Finance, 12th Floor, and will be available at this hearing

## BUDGET SUMMARY

The "Proposed Budget 2012 Expenditures" and the "Amount of 2011 Ad Valorem Tax" establish the maximum limits of the 2012 budget. The "Est(imated) Tax Rate\*" is subject to change depending on final assessed valuation.

Fund	2010		2011		Proposed Budget 2012		
	Prior Year Actual Expenditures	Actual Tax Rate*	Current Year Estimate of Expenditure	Actual Tax Rate*	Expenditures	Amount of 2010 Ad Valorem Tax	Est Tax Rate*
General Fund	201,277,252	23.619	212,785,078	24.772	229,137,874	78,292,824	24.772
Debt Service	82,636,464	8.523	94,242,091	7.500	104,792,452	23,704,028	7.500
<b>Subtotal tax-supported funds</b>	<b>283,913,716</b>	<b>32.142</b>	<b>307,027,169</b>	<b>32.272</b>	<b>333,930,326</b>	<b>101,996,852</b>	<b>32.272</b>
Tourism and Convention	5,652,208		5,703,213		7,983,130		
Special Alcohol Programs	1,846,376		2,070,000		1,928,280		
Special Parks and Recreation	1,724,474		1,769,289		1,900,009		
Ice Rink Management	12,017		100,000		108,238		
Landfill	671,029		892,049		4,297,697		
Landfill Post Closure	1,003,442		1,300,766		19,580,383		
Central Inspection	5,408,748		5,328,590		5,683,791		
Economic Development	2,768,862		5,522,401		7,017,831		
Downtown Parking	318,738		494,034		504,456		
Sales Tax Construction Pledge	23,580,591		22,390,035		41,238,074		
Homelessness Asst	336,797		382,736		382,736		
State Office Building	207,083		229,614		653,354		
TIF Districts**	5,759,895		8,578,578		17,937,696		
SSMID**	619,955		594,603		622,810		
City/County Operations	3,430,805		3,886,507		3,772,012		
Permanent Reserve	0		1,821,848		644,580		
Cemeteries	66,649		85,050		85,050		
<b>Subtotal special revenue funds</b>	<b>53,407,670</b>		<b>61,149,313</b>		<b>114,340,127</b>		
Airport Fund**	16,959,949		18,858,511		19,394,378		
Golf Fund**	4,059,863		5,750,232		5,945,917		
Transit Fund**	5,906,355		7,094,033		7,048,816		
Sewer Utility	39,846,112		45,475,220		49,054,449		
Water Utility	51,315,803		62,570,406		67,787,646		
Storm Water Utility	8,150,054		7,746,086		16,998,132		
<b>Subtotal enterprise funds</b>	<b>126,238,136</b>		<b>147,494,488</b>		<b>166,229,338</b>		
Information Technology	9,547,572		9,926,432		10,256,482		
Equipment Motor Pool	12,950,373		13,866,200		13,962,257		
Self-Insurance	38,679,301		49,904,163		53,596,342		
<b>Subtotal internal service funds</b>	<b>61,177,246</b>		<b>73,696,795</b>		<b>77,815,082</b>		
<b>TOTAL OPERATING FUNDS</b>	<b>524,736,768</b>		<b>589,367,764</b>		<b>692,314,874</b>		
Less: Interfund transactions	105,257,965		124,628,395		131,776,091		
<b>NET TOTAL</b>	<b>419,478,803</b>		<b>464,739,369</b>		<b>560,538,783</b>	<b>101,996,852</b>	<b>32.272</b>
Expendable Trust Funds	64,550,171		72,016,245		75,880,090		
Total Tax Levied	101,298,570		100,319,410				
Assessed Valuation					3,160,537,051		
<b>Outstanding Indebtedness, January 1</b>							
	<b>2009</b>		<b>2010</b>		<b>2011</b>		
GO Bonds	432,681,285		466,110,861		518,189,355		
Revenue Bonds	314,496,640		431,182,854		461,609,413		
No-Fund Warrants	0		0		0		
Lease Purchase Principal	0		0		0		
<b>Total</b>	<b>747,177,925</b>		<b>897,293,715</b>		<b>979,798,768</b>		

\* Tax Rates are expressed in mills.

\*\* These funds are shown for information purposes only and are either certified separately or are not required to be certified.

**NOTICE OF BUDGET HEARING  
AMENDING THE 2011 BUDGET**

The governing body of the *City of Wichita* will meet on the 9th day of August, 2011 at 9:00 a.m., in the City Council Room, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers relating to the proposed 2012 budget, the proposed tax levy, and for considering amendments relating to the 2011 adopted operating budget.

Detailed budget information is available at the City of Wichita Department of Finance, City Hall, 12th Floor, and will be available at this hearing.

Fund	Adopted Budget 2011			Proposed Amendment 2011 Budget
	Actual Tax Rate	Amount of Ad Valorem Tax	Expenditures	Expenditures
City/County Funds			3,849,904	3,886,507
Permanent Reserve Fund			0	1,821,848
Cemetery Fund			83,500	85,050
Equipment Motor Pool			13,207,198	13,866,200
Sewer Utility Operations			44,703,110	45,475,220

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Clerk

# NOTICE OF BUDGET HEARING

The governing body of the City of Wichita, Kansas will meet on the 9th day of August, 2011 at 9:00 A.M., in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers related to the proposed 2012 budget for Tax Increment Financing (TIF) Funds and the proposed tax increment. Detailed budget information is available at the City of Wichita Department of Finance, 12th Floor, and will be available at this hearing.

## TAX INCREMENT FINANCING (TIF) DISTRICTS BUDGET SUMMARY

The "Proposed Budget 2012 Expenditures" and the "Amount of 2012 Tax Increment" establish the maximum limits of the 2012 budget.

Tax Increment Financing Fund	2010	2011	Proposed Budget 2012	
	Prior Year Actual Expenditures	Current Year Estimate of Expenditure	2012 Expenditures	Amount of 2012 Tax Increment*
Gilbert and Mosley	2,279,760	3,285,997	6,962,523	2,670,040
North Industrial Corridor	218,710	1,634,333	8,389,173	1,165,300
<b>Total Environmental TIFs</b>	<b>2,498,470</b>	<b>4,920,330</b>	<b>15,351,696</b>	<b>3,835,340</b>
East Bank	1,424,000	2,900,000	1,980,000	1,667,704
Old Town	1,319,760	62,248	0	0
21st & Grove	158,000	220,000	165,000	142,529
Old Town Cinema	326,229	440,000	405,000	339,038
Northeast Redevelopment	33,437	36,000	36,000	36,468
<b>Total Economic Development TIFs</b>	<b>3,261,426</b>	<b>3,658,248</b>	<b>2,586,000</b>	<b>2,185,739</b>
<b>TOTAL ALL TIFs</b>	<b>5,759,895</b>	<b>8,578,578</b>	<b>17,937,696</b>	<b>6,021,079</b>

\*NOTE: The amount of the tax increment for the Economic Development TIFs is estimated and is dependent upon the incremental value of improvements since the base year when the TIF was created. The tax increment for Environmental TIFs is established through the budget process.

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Clerk

**NOTICE OF BUDGET HEARING  
AMENDING THE 2011 TIF BUDGETs**

The governing body of the *City of Wichita* will meet on the 9th day of August, 2011 at 9:00 a.m., in the City Council Room, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers relating to the proposed 2012 budget, the proposed tax levy, and for considering amendments relating to the 2011 adopted operating budget.

Detailed budget information is available at the City of Wichita Department of Finance, City Hall, 12th Floor, and will be available at this hearing.

Fund	2011 Adopted Budget		Proposed Amendment
	Amount of 2010 Tax Increment	Expenditures	2011 Budget  Expenditures
Old Town	697,147	0	62,248

# NOTICE OF BUDGET HEARING

The governing body of the City of Wichita, Kansas will meet on the 9th day of August, 2011 at 9:00 A.M., in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers related to the proposed 2012 budget and proposed tax levy, and for considering amendments relating to the 2011 adopted operating budget. Detailed budget information is available at the City of Wichita Department of Finance, 12th Floor, and will be available at this hearing.

## BUDGET SUMMARY

The "Proposed Budget 2012 Expenditures" and the "Amount of 2011 Ad Valorem Tax" establish the maximum limits of the 2012 budget. The "Est(imated) Tax Rate\*" is subject to change depending on final assessed valuation.

Fund	2010		2011		Proposed Budget 2012		
	Prior Year Actual Expenditures	Actual Tax Rate*	Current Year Estimate of Expenditure	Actual Tax Rate*	Expenditures	Amount of 2011 Ad Valorem Tax	Est Tax Rate*
SSMID	619,955	5.9530	594,603	5.963	622,810	568,020	5.963
<b>TOTAL OPERATING FUNDS</b>	<b>619,955</b>		<b>594,603</b>		<b>622,810</b>		
Less: Interfund transactions	0		0		0		
<b>NET TOTAL</b>	<b>619,955</b>		<b>594,603</b>		<b>622,810</b>	<b>568,020</b>	<b>5.963</b>
Expendable Trust Funds	0		0		0		
Total Tax Levied	601,011		586,661				
Assessed Valuation	100,789,800		98,598,496		95,257,713		
Outstanding Indebtedness, January 1							
	2009		2010		2011		
GO Bonds	0		0		0		
Revenue Bonds	0		0		0		
No-Fund Warrants	0		0		0		
Lease Purchase Principal	0		0		0		
<b>Total</b>	<b>0</b>		<b>0</b>		<b>0</b>		

\* Tax Rates are expressed in mills.

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Clerk

ORDINANCE NO. 49-046

AN ORDINANCE MAKING AND FIXING GENERAL TAX LEVY FOR THE CITY OF WICHITA, KANSAS, FOR THE YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012, AND RELATING THERETO, AND CONCURRENTLY APPROVING CERTAIN AMENDMENTS TO THE 2011 ADOPTED BUDGET.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas has adopted a budget requiring \$101,996,852 in general taxes to be levied for the funds as specified below.

There is hereby levied by the City of Wichita, Kansas on all taxable tangible property in the City of Wichita, Kansas, according to the estimated assessed valuation thereof, a mill levy rate for the City of Wichita, Kansas, and said mill levy rate is subject to the actual determination of assessed valuation by the County Clerk. It is the intention of the City of Wichita to set a levy sufficient to raise the above amounts; PROVIDED, that said levy must remain within those limitations set by statute or charter ordinance.

SECTION 2. That in accordance with Section 1 hereof, there be and hereby is levied by the City of Wichita, Kansas, upon all the taxable property in the City of Wichita, Kansas, according to the assessed valuation thereof, the following amount for the use of the City of Wichita, Kansas, for the year 2012, which begins January 1, 2012, and ends December 31, 2012, for the following purposes, to wit:

CALCULATION OF TAX DOLLARS TO BE LEVIED		
	<u>City of Wichita</u>	<u>Mill Levy</u>
Assessed Valuation	\$3,160,537,051	
Taxes to be Levied:		
General Fund	78,292,824	24.772
Debt Service Fund	<u>23,704,028</u>	<u>7.500</u>
<b>Total:</b>	<b>101,996,852</b>	<b>32.272</b>



SECTION 3. It is hereby attested that in order to maintain the public services essential for the citizens of this city, it will be necessary to utilize property tax revenue in an amount exceeding the revenues expended in the budget year 2010. The estimated amount of increased property tax revenue is \$730,889.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the property taxes required in this ordinance to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. That the amendments to the 2011 Adopted Budget of the City of Wichita, Kansas, as proposed for consideration and noticed for public hearing concurrently with the proposed 2012 Budget, be, and the same (together with any modifications thereto as may have been made following the public hearing) hereby are, approved and adopted.

SECTION 6. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9th day of August, 2011

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney  
and Director of Law

ORDINANCE NO. 49-047

AN ORDINANCE MAKING AND FIXING GENERAL TAX LEVY FOR THE DOWNTOWN WICHITA SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICT FOR THE YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012.

WHEREAS, the City of Wichita, Kansas, has established the Downtown Wichita Self-Supported Municipal Improvement District ("District") by Ordinance No. 44-895 under the authority of K.S.A. 12-1794, et seq., effective March 24, 2001, and the governing body of the City serves as the governing body of the District; and,

WHEREAS, on February 12, 2008, the City of Wichita, Kansas established the term of the District Ordinance to the year 2012, and then automatically for one more year, for each year the City adopts a District budget; and

WHEREAS, pursuant to K.S.A. 12-17,102, the governing body of the District is authorized to levy taxes annually within the District to carry out the purposes of the District; and

WHEREAS, the Downtown Wichita Self-Supported Municipal Improvement District Advisory Board has submitted a proposed budget to the governing body of the District as required by law;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The governing body of the Downtown Wichita Self-Supported Municipal Improvement District ("District") has adopted a budget requiring \$568,020 in general taxes to be levied for the fund of the District for the year 2012, which begins January 1, 2012, and ends December 31, 2012. The boundaries of the District are as follows:

Beginning at the east bank of the Arkansas River and the Kellogg Street Fly Over, eastward to Washington Street; North along Washington Street to Central Avenue; West along Central Avenue to its intersection with Greenway Boulevard; and along a line south through the War Memorial Park to the east bank of the Arkansas River; South along the east bank of the Arkansas River to the point of beginning at the Kellogg Street Fly Over, all in Wichita, Sedgwick County Kansas, EXCEPT AND EXCLUDING THEREFROM THE REAL PROPERTY DESCRIBED AS Lot 2, Emerson Addition to the City of Wichita, Sedgwick County, Kansas.

And as shown upon the map attached as Exhibit A and made a part of this ordinance.

SECTION 2. There is hereby levied by the governing body of the District on all taxable tangible property in the District, according to the estimated assessed valuation thereof, a mill

levy rate for the District, and said mill levy rate is subject to the actual determination of assessed valuation by the County Clerk. It is the intention of the City of Wichita to set a levy sufficient to raise the above amounts; PROVIDED, that said levy must remain within those limitations set by statute or ordinance.

SECTION 3. That in accordance with Section 2 hereof, there be and hereby is levied upon all the taxable property in the District, according to the assessed valuation thereof, the following amount for the use of the District, for the year 2012, which begins January 1, 2012, and ends December 31, 2012, to wit:

CALCULATION OF TAX DOLLARS TO BE LEVIED		
	<u>District</u>	<u>Mill Levy</u>
Assessed Valuation	\$95,257,713	
Taxes to be Levied:	\$568,020	5.963

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the property taxes required in this ordinance to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9<sup>h</sup> day of August, 2011.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST: (SEAL)

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney  
Director of Law

## **DESCRIPTION OF THE DOWNTOWN SELF-SUPPORTING MUNICIPAL IMPROVEMENT DISTRICT (SSMID)**

Within the City of Wichita, Sedgwick County, Kansas, beginning at the east bank of the Arkansas River and the Kellogg Street Fly Over, eastward to Washington Street; north along Washington Street to Central Avenue; west along Central Avenue to its intersection with Greenway Boulevard; and along a line south through the War Memorial Park to the east bank of the Arkansas River; south along the east bank of the Arkansas River to the point of beginning at the Kellogg Street Fly Over, all in Wichita, Sedgwick County, Kansas, EXCEPT AND EXCLUDING THEREFROM THE REAL PROPERTY DESCRIBED AS Lot 2, Emerson Addition to the City of Wichita, Sedgwick County, Kansas.



**THE DOWNTOWN SELF-SUPPORTING MUNICIPAL  
IMPROVEMENT DISTRICT (SSMID)**

ORDINANCE NO. 49-048

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE EAST BANK REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the East Bank Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the East Bank Redevelopment District, the District being created in 1995; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the East Bank Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2002; and,

WHEREAS, the City has by ordinance expanded the District boundaries, the District boundaries being modified in 2004; and,

WHEREAS, the boundaries of the East Bank Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$1,667,704 of increment funds in ad valorem taxes from the East Bank Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the East Bank Redevelopment District at \$1,667,704 for the year beginning January 1, 2012, and ending December 31, 2012.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2012, and December 31, 2012, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the East Bank Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9th day of August 2011.

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney  
Director of Law



## **EXHIBIT “A”**

### **DESCRIPTION OF THE EAST BANK REDEVELOPMENT DISTRICT (TIF DISTRICT #3)**

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of Main Street and Kellogg Avenue, thence north on Main Street to the intersection of Main Street and Douglas Avenue, thence west on Douglas Avenue to the intersection of Douglas Avenue and Waco Street, thence north on Waco to the intersection of Waco Street and Greenway Boulevard, thence north on Greenway Boulevard to Central Avenue, thence west on Central Avenue to Seneca Street, thence south on Seneca Street to the intersection of Seneca Street and McLean Boulevard, thence south on McLean Boulevard to Kellogg Avenue, thence east on Kellogg Avenue to Main Street, being the point of beginning, plus an approximately five-acre parcel located at the southwest corner of Maple Street and McLean Boulevard.



### **THE EAST BANK REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #3)**



(Published in The Wichita Eagle on August 12, 2011) 037002

ORDINANCE NO. 49-049

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Old Town Cinema Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the Old Town Cinema Redevelopment District, the District being created in 1999; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Old Town Cinema Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance reduced the District boundaries, the District boundaries being modified in 2001; and,

WHEREAS, the boundaries of the Old Town Cinema Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$339,038 of increment funds in ad valorem taxes from the Old Town Cinema Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the Old Town Cinema Redevelopment District at \$339,038 for the year beginning January 1, 2012, and ending December 31, 2012.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2012 and December 31, 2012 including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure

improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the Old Town Cinema Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9th day of August, 2011.

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney  
Director of Law

## **EXHIBIT “A”**

### **DESCRIPTION OF THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT (TIF DISTRICT #7)**

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of East 3<sup>rd</sup> Street North and Washington Street, thence south along the centerline of Washington Street to the intersection of Washington Street and East 2<sup>nd</sup> Street North, thence west along the centerline of East 2<sup>nd</sup> Street North to the intersection of East 2<sup>nd</sup> Street North and Santa Fe Street, thence north along the centerline of Santa Fe Street to the intersection of Santa Fe Street and East 3<sup>rd</sup> Street North, thence east along the centerline of East 3<sup>rd</sup> Street North to the intersection of East 3<sup>rd</sup> Street North and Washington Street, being the point of beginning.

### **THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #7)**



(Published in The Wichita Eagle on August 12, 2011) 037002

ORDINANCE NO. 49-050

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE 21ST AND GROVE REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the 21st and Grove Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the 21st and Grove Redevelopment District, the District being created in 1995; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the 21st and Grove Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2002; and,

WHEREAS, the boundaries of the 21st and Grove Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$142,529 of increment funds in ad valorem taxes from the 21st and Grove Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the 21st and Grove Redevelopment District at \$142,529 for the year beginning January 1, 2012, and ending December 31, 2012.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2012, and December 31, 2012, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the

Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the 21st and Grove Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9th day of August, 2011.

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney  
Director of Law

## **EXHIBIT “A”**

### **DESCRIPTION OF THE 21ST AND GROVE REDEVELOPMENT DISTRICT (TIF DISTRICT #5)**

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of East 21<sup>st</sup> Street North and Grove Avenue thence south along the center line of Grove Avenue to the intersection of Grove Avenue and Stadium Avenue, thence west along the center line of Stadium Drive to the intersection of Stadium Drive and Madison Avenue, thence south along the center line of Madison Avenue to the point adjacent to the southeast corner of Lot 6 Block A in the J Walter Ross 2<sup>nd</sup> Addition on Stadium Drive, thence west to the center line of Piatt Avenue, thence north along the center line of Piatt Avenue to the intersection of Piatt Avenue and 21<sup>st</sup> Street North, thence east along the center line of 21<sup>st</sup> Street North to a point adjacent to the southwest corner of Lot 1 in the Logopedics Addition on 21<sup>st</sup> Street North, thence north to the center line of 25<sup>th</sup> Street North, thence east along the center line of 25<sup>th</sup> Street North to the point adjacent to the northeast corner of Reserve “C” in the Logopedics Addition, thence south to the center line of 21<sup>st</sup> Street North, thence east along the center line of 21<sup>st</sup> Street North to the point of beginning.



### **THE 21ST AND GROVE REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #5)**

(Published in The Wichita Eagle on August 12, 2011) 037002

ORDINANCE NO. 49-051

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE NORTHEAST REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Northeast Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the Northeast Redevelopment District, the District being created in 1997; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Northeast Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2003; and,

WHEREAS, the boundaries of the Northeast Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$36,468 of increment funds in ad valorem taxes from the Northeast Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the Northeast Redevelopment District at \$36,468 for the year beginning January 1, 2012, and ending December 31, 2012.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2012, and December 31, 2012, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of

properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the Northeast Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9th day of August, 2011.

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney  
Director of Law



## **EXHIBIT “A”**

### **DESCRIPTION OF THE NORTHEAST REDEVELOPMENT DISTRICT (TIF DISTRICT #X)**

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of E 13<sup>th</sup> St N and N Grove Avenue, thence north along the center line of N Grove Avenue to the point adjacent to the northwest corner of Lot 11 in Marsh’s Replat of Getto’s 2<sup>nd</sup> Addition, thence east to the northwest corner of Lot 12 in March’s Replat of Getto’s 2<sup>nd</sup> Addition, thence south to the southwest corner of Lot 12, thence east to the center line of N Poplar Avenue, thence south to the center line of E 13<sup>th</sup> ST N, thence west to the point of the beginning.



### **THE NORHTEAST REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #X)**

ORDINANCE NO. 49-052

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE GILBERT AND MOSLEY SITE REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Gilbert and Mosley Site Redevelopment District under authority of K.S.A. 1990 Supp. 12-1770 *et seq.*, and Chapter 59 of the 1991 Sessions Laws of the State of Kansas; and,

WHEREAS, the City has by ordinance passed upon a 2/3 vote adopted a redevelopment plan for the Gilbert and Mosley Site Redevelopment District, the District being created in 1991; and,

WHEREAS, the City found that the conditions set forth in Section 1(a)(2) of Chapter 59 of the 1991 Session Laws of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Gilbert and Mosley Site Redevelopment District is set on a yearly basis as provided in Section 2(b) of Chapter 59 of the 1991 Session Laws of the State of Kansas; and,

WHEREAS, the boundaries of the Gilbert and Mosley Site Redevelopment District are described in "Exhibit A" attached hereto

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget requiring \$2,670,040 of increment funds in ad valorem taxes from the Gilbert and Mosley Site Redevelopment District (the current boundaries of the District are described in "Exhibit A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby sets the increment to be collected from ad valorem taxes produced from property located within the Gilbert and Mosley Site Redevelopment District at \$2,670,040 for the year beginning January 1, 2012, and ending December 31, 2012.

SECTION 3. The purpose of setting this increment is to pay the direct costs of investigation and remediation of the contaminated condition that exists in the Gilbert and Mosley Site Redevelopment District that are anticipated to be incurred between January 1, 2012, and December 31, 2012, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. The increment set herein does not exceed twenty percent (20%) of the amount of taxes that were produced in 1991, which was the year the Gilbert and Mosley Site Redevelopment District was first established.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment to be produced from ad valorem taxes that are to be levied in the Gilbert and Mosley Site Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9<sup>th</sup> day of August 2011.

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney  
Director of Law

## BUDGET SUMMARY

The expenditures, revenues and the amount of 2012 tax to be levied (published below) establish the maximum limits of the 2012 budget for the Groundwater Contamination Project of the Gilbert and Mosley Site Redevelopment District.

<b>Gilbert and Mosley Site Redevelopment District</b>		<b>Amount To</b>
<b><u>Revenues:</u></b>	<b><u>2011 Proposed Budget</u></b>	<b><u>Be Levied</u></b>
Contributions - potentially responsible parties	107,500	
Interest earnings	1,500	
KDHE reimbursements	155,162	
Motor Vehicle Tax	300	
Cost to be funded by a levy from the Gilbert and Mosley Site Redevelopment District*	<u>2,670,040</u>	<u>\$ 2,670,040</u>
<b>Total Revenues</b>	<b>\$ 2,934,502</b>	
<b><u>Expenditures:</u></b>		
Personal services	0	
Contractuals	1,205,129	
Commodities	47,606	
Capital outlay	0	
Debt service / temporary notes	1,383,710	
Reimbursements	176,078	
Environmental remediation projects	<u>4,150,000</u>	
<b>Total Expenditures</b>	<b>\$ 6,962,523</b>	

\* The Gilbert and Mosley Site Redevelopment District was formed under authority of Ordinance No. 41-446 and K.S.A. 12-1770 *et seq.*

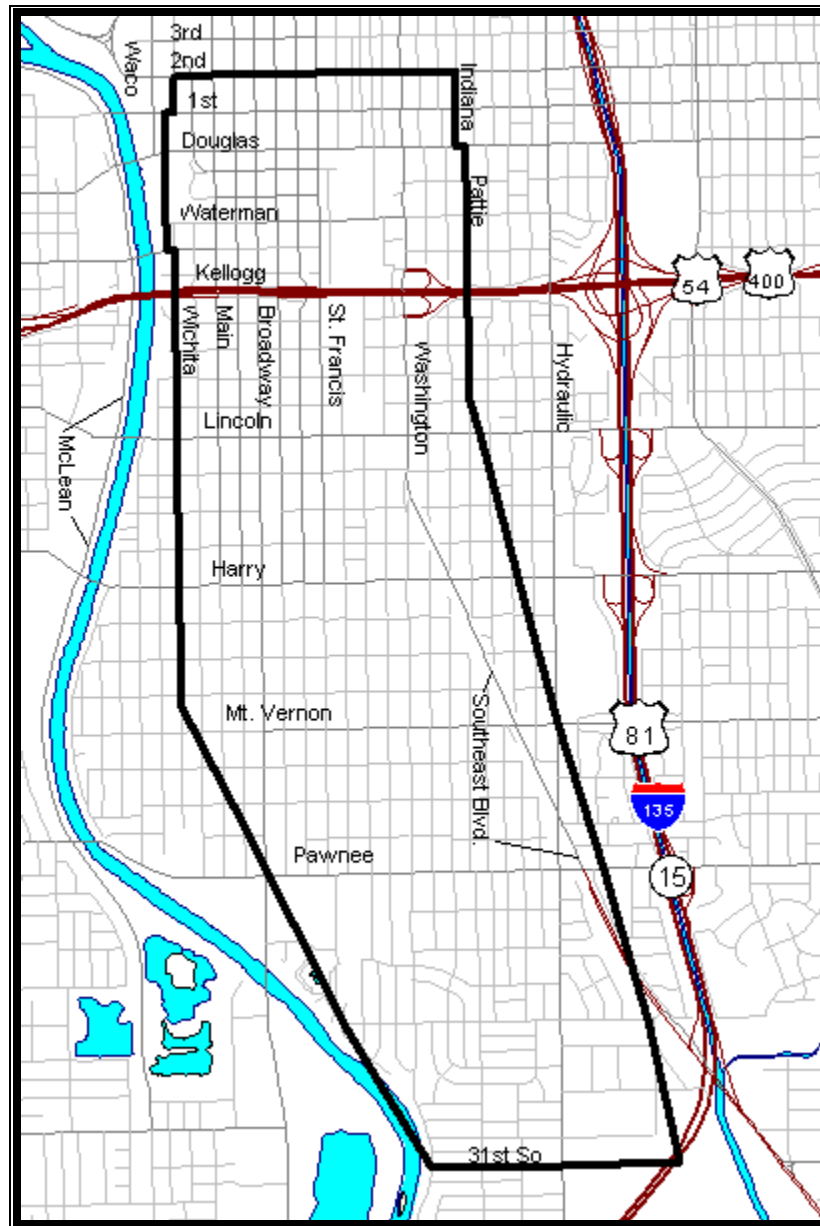
K.S.A. 12-1771a(d) provides that the real property taxes produced by the environmental increment from a redevelopment district shall be allocated and paid by the County Treasurer to the Treasurer of the City and deposited in a special separate fund of the City to pay the direct cost of investigation and remediation of contamination in the redevelopment district. K.S.A. 12-1771a(b) provides that the environmental increment is set on a yearly basis and each year's increment shall be set in an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year. The mill levy rate for property located inside the Redevelopment District does not increase as a result of this levy. Therefore, an estimate of the mill levy rate is not included in this budget summary.

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Karen Sublett, City Clerk

## **DESCRIPTION OF THE GILBERT AND MOSLEY SITE REDEVELOPMENT DISTRICT (TIF DISTRICT #1)**

Within the City of Wichita, Sedgwick County, Kansas, bounded on the north by Second Street; on the west by Wichita Street from Second Street to First Street; thence west on First Street to Civic Center Place; thence south on Civic Center Place and Civic Center Place extended to Lewis and Wichita Street; thence south along Wichita Street to Skinner Street; thence southeast including part of the 1900 block of South Wichita Street, the 2000 block of South Water Street, the 2100 block of South Main Street, the 2200 block of South Market Street, the 2300, 2400 and 2500 blocks of South Santa Fe Street; from Santa Fe Street and Greenway Boulevard to 31<sup>st</sup> Street South and Washington, 31<sup>st</sup> Street South being the south boundary; thence along 31<sup>st</sup> Street South to Interstate Highway I-135; thence northwesterly along the east boundary including the 3000 and 2900 blocks of South Madison, Northern and Wassall Streets, west of Madison, Wassall west of Southeast Boulevard, 1805 Glen Oaks Drive, the 2500 block of South Southeast Drive, the 1900 block of East Pawnee, Blake Street west of Minnesota Street, Stafford Street west of Minneapolis Street, the west side of Minneapolis between Stafford Street and Hodson Street, west of Kansas Street between Hodson Street and Mt. Vernon Street, Linwood Park, west of Hydraulic Avenue from Mt Vernon Street to Funston Street, the 1600 and 1700 blocks of South Greenwood, the 1400 and 1500 blocks of South Ellis, the 1200 and 1300 blocks of South Lulu, thence beginning at the 1000 block of Pattie, north along Pattie to Douglas, thence west along Douglas to Indiana; thence north along Indiana to Second Street being the north boundary.



**THE GILBERT & MOSLEY SITE REDEVELOPMENT DISTRICT  
(TAX INCREMENT FINANCING DISTRICT #1)**

ORDINANCE NO. 49-053

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012.

WHEREAS, the City of Wichita, Kansas, has previously, by Ordinance No. 43-009, established a Redevelopment District designated as the North Industrial Corridor Redevelopment District under authority of K.S.A. 12-1770, *et seq.*; and,

WHEREAS, the City has by ordinance passed, upon a 2/3 affirmative vote of the governing body, a redevelopment plan for the North Industrial Corridor Redevelopment District, the District being created in 1996; and,

WHEREAS, the City has previously found that the conditions set forth in K.S.A. 1995 Supp. 12-1771(a)(2) did exist and therefore the increment in ad valorem taxes for the North Industrial Corridor Redevelopment District is set on a yearly basis as provided in K.S.A. 12-1771a(b); and,

WHEREAS, the boundaries of the North Industrial Corridor Redevelopment District are described in "Exhibit A" attached hereto

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget requiring \$1,165,300 of increment funds in ad valorem taxes from the North Industrial Corridor Redevelopment District (the boundaries of the District are described in "Exhibit A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby sets the increment to be collected from ad valorem taxes produced from property located within the North Industrial Corridor Redevelopment District at \$1,165,300 for the year beginning January 1, 2012, and ending December 31, 2012.

SECTION 3. The purpose of setting this increment is to pay the direct costs of investigation and remediation of the contaminated condition that exists in the North Industrial Corridor Redevelopment District that are anticipated to be incurred between January 1, 2012, and December 31, 2012, including costs of remediation and investigation, and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. The increment set herein does not exceed twenty percent (20%) of the amount of taxes that were produced in 1996, which is the year in which the North Industrial Corridor Redevelopment District was first established.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment to be produced from ad valorem taxes that are to be levied in the North Industrial Corridor Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 9<sup>th</sup> day of August 2011.

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Carl Brewer, Mayor

ATTEST: (SEAL)

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary E. Rebenstorf, City Attorney  
Director of Law



## BUDGET SUMMARY

The expenditures, revenues and the amount of 2012 tax to be levied (published below) establish the maximum limits of the 2012 budget for the Groundwater Contamination Project of the North Industrial Corridor Redevelopment District.

<b>North Industrial Corridor Redevelopment District</b>		<b>Amount To</b>
<b><u>Revenues:</u></b>	<b><u>2012 Proposed Budget</u></b>	<b><u>Be Levied</u></b>
Motor Vehicle Taxes	150	
Other Revenue	-117,790	
Interest earnings	2,500	
Cost to be funded by a levy from the North Industrial Corridor Redevelopment District*	<u>1,165,300</u>	<u><b>\$ 1,165,300</b></u>
<b>Total Revenues</b>	<b>\$1,050,160</b>	
<b><u>Expenditures:</u></b>		
Personal services	0	
Contractuals	1,437,295	
Commodities	4,300	
Capital outlay	21,500	
Other	176,078	
Environmental remediation projects	<u>6,750,000</u>	
<b>Total Expenditures</b>	<b>\$8,389,173</b>	

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\* The North Industrial Corridor Redevelopment District was formed under authority of Ordinance No. 43-009 and K.S.A. 12-1770 *et seq.*

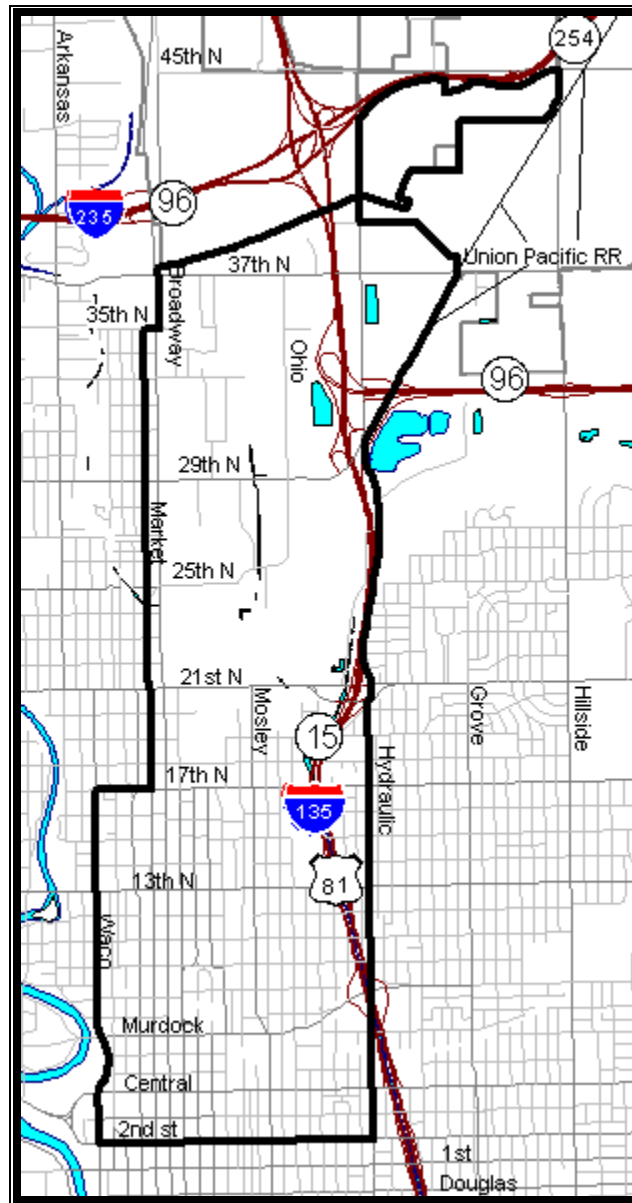
K.S.A. 12-1771a(d) provides that the real property taxes produced by the environmental increment from a redevelopment district shall be allocated and paid by the County Treasurer to the Treasurer of the City and deposited in a special separate fund of the City to pay the direct cost of investigation and remediation of contamination in the redevelopment district. K.S.A. 12-1771a(b) provides that the environmental increment is set on a yearly basis and each year's increment shall be set in an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year. The mill levy rate for property located inside the Redevelopment District does not increase as a result of this levy. Therefore, an estimate of the mill levy rate is not included in this budget summary.

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Karen Sublett, City Clerk

## **DESCRIPTION OF THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT (TIF DISTRICT #2)**

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of 37<sup>th</sup> Street North and Broadway Avenue, thence south along the center line of Broadway Avenue to the intersection of Broadway Avenue and 35<sup>th</sup> Street North, thence west along the center line of 35<sup>th</sup> Street North to the intersection of 35<sup>th</sup> Street North and Market Street, thence south along the center line of Market Street to the intersection of Market Street and 17<sup>th</sup> Street, thence west along the center line of 17<sup>th</sup> Street to the intersection of 17<sup>th</sup> Street and Waco Avenue, thence south along the center line of Waco Avenue to the intersection of Waco Avenue and Second Street, thence east along the center line of Second Street to the intersection of Second Street and Hydraulic Avenue, thence north along the center line of Hydraulic Avenue to the point where the center line of Hydraulic Avenue intersects the east right of way of Interstate Highway I-135, thence generally north along the east right of way of Interstate Highway I-135 to the point where the east right of way of Interstate Highway I-135 intersects the west right of way of the Union Pacific Railroad, thence generally northeast along the west right of way of the Union Pacific Railroad to the center line of 37<sup>th</sup> Street North, thence generally northwest and southeast along the boundary line of the corporate limits of the City of Wichita as defined by the boundary resolution of December 19, 1995, to the center line of Hydraulic Avenue, thence north along the center line of Hydraulic Avenue to the south right of way of State Highway K-254, thence generally east along the south right of way of State Highway K-254 to the center line of Hillside Avenue, thence generally northeast and southwest along the boundary line of the corporate limits of the City of Wichita to the intersection of 37<sup>th</sup> Street North and Broadway Avenue, being the point of beginning.



**THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT  
(TAX INCREMENT FINANCING DISTRICT #2)**

Resolution Number 11-175

A RESOLUTION TO ADOPT THE WICHITA EARLY RETIREMENT INCENTIVE\_PROGRAM TO  
CREATE AN EARLY RETIREMENT INCENTIVE FOR EMPLOYEES VESTED UNDER THE  
WICHITA EMPLOYEE'S RETIREMENT AND POLICE AND FIRE RETIREMENT SYSTEMS

WHEREAS, the projected City of Wichita budget deficit for 2012 and subsequent years require that significant reductions be made in the City's budgeted expenses, and

WHEREAS, a large portion of the City's general fund budget is comprised of personnel costs, and

WHEREAS, a mutually beneficial opportunity exists to reduce the City's personnel costs by providing an early retirement incentive plan to eligible employees in the form of continued health care insurance for a period after retirement of up to five years or attainment of the age of 65, whichever is less, and

WHEREAS, such a plan can be developed in a non-discriminatory manner, so that all health insurance programs offered to active City of Wichita employees would be available to eligible, vested members of the Wichita Employees' Retirement system in a manner that is consistent with the contribution allotments of active City employees,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS ON THIS 19TH DAY OF JULY, 2011 THAT,

1. The Governing Body hereby authorizes and adopts The City of Wichita Early Retirement Incentive Program (WERIP) to provide early retirement incentives to City of Wichita employees, vested in their retirement programs, in the form of continued payments of health insurance premiums for up to five years, or until attainment of the age of 65, whichever is less.
2. City staff are hereby directed to move expeditiously to implement The City of Wichita Early Retirement Incentive Program (WERIP) to accomplish this end in a non discriminatory manner, so that it is available to eligible employees in the Wichita Employees' Retirement system.
3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official city newspaper.

ADOPTED AT WICHITA, KANSAS BY THE GOVERNING BODY OF THE CITY OF WICHITA  
ON THIS 19<sup>TH</sup> DAY OF JULY, 2011.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY E. REBENSTORF,  
DIRECTOR OF LAW AND CITY ATTORNEY

**City of Wichita  
City Council Meeting  
July 19, 2011**

**TO:** Mayor and City Council Members

**SUBJECT:** Ordinance Amending Chapter 3.22 of the Code of the City of Wichita Pertaining to Licensing and Regulation of Haunted Houses and Haunted Walks/Fields

**INITIATED BY:** Office of Central Inspection

**AGENDA:** New Business

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**Recommendation:** Approve first reading of the ordinance amending Chapter 3.22 of the Code of the City of Wichita pertaining to licensing and regulation of haunted houses and outdoor haunted walks/fields.

**Background:** Chapter 3.22 of the Code of the City of Wichita sets forth minimum requirements for temporary haunted houses (indoor and outdoor) during the Halloween season. The current ordinance has not been substantially amended in over thirty years, and includes minimal license application requirements and building/life safety regulation. Concerns about the ordinance were expressed last year by a haunted house operator during a City Council Public Agenda. In early 2011, the City Manager directed the Law Department to develop proposed amendments to the haunted house ordinance.

In late March 2011, the Law Department completed an initial draft of proposed ordinance amendments, and circulated the draft ordinance for review by Fire Department, Office of Central Inspection, Police Department and Finance Department (Express Office) staff. In late April 2011, a revised draft ordinance was completed by Law, incorporating most suggested interdepartmental staff team recommendations. In May 2011, at the direction of the City Manager, the proposed amendments were provided to known Wichita haunted house operators/representatives to obtain their input. On June 14, 2011, staff met with haunted house operators/representatives to review the proposed ordinance in detail, and to obtain their feedback and suggestions. Many of the haunted house operator/representative suggestions were subsequently incorporated into the draft ordinance. A revised, proposed ordinance was re-issued to operators/representatives in late June for final comment.

**Analysis:** The proposed amendments to Chapter 3.22 of the Code of the City of Wichita pertaining to haunted houses and outdoor haunted walks/fields are outlined below.

- Section 3.22.010. The definition of “Haunted House” is clarified and several new definitions are added. New definitions include: “Haunted House, Indoor”; “Haunted Walk/Field, Outdoor”; “Permanent Haunted House” (indoor only); and “Temporary Haunted House” (both indoor and outdoor).
- Sections 3.22.015 and 3.22.080. Enforcement action is specifically allowed by Fire, Police, Central Inspection and Public Works & Utilities (Environmental Services Division); revocation specifically allowed by Fire, Police and Central Inspection.
- Section 3.22.020. The application fee for a temporary/seasonal haunted house (September 1<sup>st</sup> through November 2<sup>nd</sup>) is raised from \$50.00 to \$100.00 (cost recovery). The annual license application fee for newly allowed “permanent indoor” haunted houses is established at \$250.00.
- Section 3.22.020 (a) and (b). A re-inspection fee of \$50.00 will be assessed for each re-inspection required of property at the time of licensing or renewal, and in the case of permanent indoor haunted houses, for any required inspections related to modifications made during the annual license period. No inspection fee is charged for the initial license inspection.
- Section 3.22.040. The liability insurance requirement is increased from a minimum of \$25,000 to \$500,000 per individual, and from a minimum of fifty thousand to one million dollars per occurrence.

- Section 3.22.035. A section setting forth minimum application and applicant/operator requirements is added. Felons and sex offenders are prohibited from obtaining a license.
- Section 3.22.060. Amended operational standards, safety requirements, inspection and general regulations are added, and include the following:
  - additional fire and life safety standards;
  - clarified off-street parking and parking location requirements;
  - minimum restroom facility (permanent or temporary) requirements;
  - compliance with noise and zoning ordinances;
  - prohibition in residential zoning districts unless at a church, school or on public property;
  - temporary/seasonal indoor or outdoor haunted house operations are allowed from September 1<sup>st</sup> through November 2<sup>nd</sup>;
  - indoor haunted houses may only operate between the hours of noon and two a.m.; and
  - outdoor haunted houses or outdoor walks/fields may only operate on a temporary/seasonal basis, and only open between the hours of noon and eleven p.m. Sunday through Thursday, and between the hours of noon and midnight on Friday and Saturday.
- Section 3.22.062. Specifically allows for inspection of the haunted house, facility and/or premise by City departments/officials.
- Section 3.22.065. This new section outlines maximum facility/premise occupant load capacity determination and posting by the Fire Chief and Superintendent of Central Inspection.
- Section 3.22.070. Criminal penalty is increased from a fine not to exceed \$100 to a fine not to exceed \$500.00. This is consistent with other City license regulation penalties.
- Section 3.22.080. Criteria for denial and/or suspension of license are established.
- Section 3.22.090. Procedures for appeal of the denial, suspension or revocation of a license are established.

**Financial Considerations:** There are no costs to the City associated with adoption of the ordinance. Adoption of the proposed license and inspection fee increases/additions will substantially recover City costs associated with haunted house and haunted walk/field license reviews and approvals.

**Goal Impact:** This item impacts the Provide and Safe and Secure Community goal indicator by providing appropriate licensing, insurance, building/life safety and inspection requirements for haunted houses and outdoor haunted walks/fields.

**Legal Considerations:** The Law Department prepared the ordinance and has approved it as to form.

**Recommendation/Action:** It is recommended that the City Council approve first reading of the ordinance amending Chapter 3.22 of the Code of the City of Wichita pertaining to haunted houses and haunted walks/fields.

**Attachment:** Delineated ordinance amending Chapter 3.22 of the Code of the City of Wichita.

ORDINANCE NO. 49-042

AN ORDINANCE AMENDING SECTIONS 3.22.010, 3.22.020, 3.22.040, 3.22.060 AND 3.22.070, CREATING SECTIONS 3.22.015, 3.22.035, 3.22.062, 3.22.065, 3.22.067, 3.22.080 AND 3.22.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO HAUNTED HOUSES, HALLOWEEN HOUSES, MYSTERY MANSIONS AND GHOST WALKS AND REPEALING THE ORIGINALS OF SECTIONS 3.22.010, 3.22.020, 3.22.040, 3.22.050, 3.22.060 AND 3.22.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.22.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Definitions.** 'Chief of Police' means the Chief of the Wichita Police Department or his/her designee;

'Fire Chief' means the Director of the Fire Department of the City of Wichita, Kansas, or his/her designee;

'Halloween Season' means the period of time from September 1st through November 2nd of any calendar year;

'Haunted House, Indoor' means any indoor permanent or temporary building, structure or facility, or portion thereof, which provides walkways or any other system that transports passengers through a facility or course so arranged that the means of egress are not readily apparent due to theatrical distractions or

displays, are not plainly visible due to low illumination, or are not readily accessible or available due to the type of course, pathways or method of transportation through the building or structure, and where the public is invited to view, be entertained, scared or amused by simulated creations of sound, theatrical displays or distractions, or sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature in the spirit of and celebration of the holiday known as Halloween. Unless otherwise specified, such term shall include temporary and permanent haunted houses, indoor.

‘Haunted Walk/Field, Outdoor’ means an attraction similar to haunted houses, indoor, which occurs primarily outdoors but may include both outdoor or indoor areas where egress to a public way is not readily identifiable, where the public is invited to view, be entertained, scared or amused by simulated creations of sound, theatrical distractions, sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature in the spirit of and celebration of the holiday known as Halloween.

‘Permanent Haunted House’ means a ‘Haunted House, Indoor’ that meets the requirements of the Wichita-Sedgwick County Unified Zoning Code as related to “Recreation and Entertainment, Indoor” uses, as well as all City of Wichita building, fire, electrical, elevator, mechanical, plumbing and sewer codes, which may operate year round.

‘Person’ means any individual, firm, association, company, partnership, or other legal entity.



‘Superintendent of Central Inspection’ means the superintendent or person in charge of the Office of Central Inspection of the City or his/her designee

‘Temporary Haunted House, Indoor or Temporary Haunted Walk/Field, Outdoor’ means a haunted house, indoor, or haunted walk/field, outdoor that is operated only during the Halloween Season.”

SECTION 2. Section 3.22.015 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Enforcement of provisions of Code.** (a) The Office of Central Inspection of the City of Wichita, the Wichita Police Department, the Wichita Fire Department, the Wichita Department of Public Works & Utilities and the authorized representatives of such departments, shall be responsible for the enforcement of all provisions of this Code.

(b) The provisions of this Code are in addition to any other health, fire, zoning, building code or life safety requirements within the ordinances of the Code of the City of Wichita or laws of the State of Kansas.”

SECTION 3. Section 3.22.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License or permit required--Fee.** (a) It is unlawful for any person to engage, conduct, pursue, operate, authorize or permit, within the corporate limits of the city, a temporary haunted house, indoor or haunted walk/field, outdoor, whether or not an admittance fee is charged, without first obtaining a license from the City Treasurer and paying a license fee of one hundred dollars.

In addition to the application fee, an inspection fee not to exceed fifty dollars (\$50.00) will be assessed for each subsequent inspection(s) of the property by the Office of Central Inspection or the Fire Department to determine compliance with the provisions of this Code at the time of licensing. No inspection fee shall be assessed for the initial inspection. Further, the applicant or his/her contractors or other agents are responsible for obtaining any and all permits and inspections required pursuant to the building, fire, electrical, mechanical, plumbing and elevator codes of the City of Wichita.

(b) It is unlawful for any person to engage, conduct, pursue, operate, authorize or permit, within the corporate limits of the city, a permanent haunted house, indoor, whether or not an admittance fee is charged, without first obtaining a license from the City Treasurer and paying a license fee of two hundred fifty dollars;

In addition to the application fee, an inspection fee not to exceed fifty dollars (\$50.00) will be assessed for each subsequent inspection(s) of the property by the Office of Central Inspection or the Fire Department to determine compliance with the provisions of this Code at the time of licensing, or during the annual license period when modifications to egress paths or systems, theatrical distraction or displays, or egress path illumination are made. Such modifications must be inspected and approved by the City of Wichita Fire Department and/or Office of Central Inspection. No inspection fee shall be assessed for the initial annual license inspection. Further, the applicant or his/her contractors or other agents are responsible for obtaining any and all permits and inspections required

pursuant to the building, fire, plumbing, sewer, mechanical, elevator and electrical codes of the City of Wichita.

(c) No license shall be issued for the operation of a haunted house, indoor or haunted walk/field, outdoor in any residential zoning district except those located in buildings of churches, schools or upon public property with the written approval of the municipality, department or agency authorized to issue such approval for use of the property.

(d) The license for temporary haunted houses, indoor or haunted walks/fields, outdoor shall be effective for one annual Halloween Season as defined by this chapter.

(e) The license for permanent haunted houses, indoor shall be effective for twelve months.”

SECTION 4. Section 3.22.035 of the Code of the City of Wichita is hereby created to read as follows:

**“Application.** (a) Before any license is granted or issued for a haunted house, indoor or haunted walk/field, outdoor, an application shall be filed with the City Treasurer, setting forth the following facts:

(1) The name, address, date of birth of the applicant and a telephone number where the applicant can be reached between the hours of eight a.m. and five p.m. and during the hours of operation of the haunted house, indoor or haunted walk/field, outdoor;

(2) Address of the haunted house, indoor or haunted walk/field, outdoor;

- (3) Property owner's name, address and phone number;
  - (4) Dates for which the license is desired;
  - (5) Hours and days the haunted house, indoor or haunted walk/field, outdoor is to be open and closed;
  - (6) A statement that the applicant is familiar with the conditions imposed by the terms of this chapter;
  - (7) Written consent of the property owner;
  - (8) Site and/or floor plan of all proposed indoor or outdoor permanent or temporary buildings, structures, facilities or property;
  - (9) Plan for parking and restroom facilities;
  - (10) Maximum occupant load of the buildings, facilities or areas.
- (b) In addition, the applicant must furnish:
- (1) The name(s) and address(es) of the owner(s) of the premises where such haunted house, indoor or haunted walk/field, outdoor is located;
  - (2) The manager or operator and, if a corporation or partnership, all the names and addresses of the officers of such corporation or partnership and any individual who owns twenty-five (25) percent or more of the stock of such corporation. If the license is to be held by a corporation, the resident officer of the corporation. If the applicant is a partnership, all the names, addresses, social security numbers and dates of birth of all partners of the partnership;

(3) The name, address and date of birth of the applicant, owner, manager or other responsible person of the haunted house, indoor or haunted walk/field, outdoor;

(4) An emergency management plan, consisting of, but not limited to, fire and storm evacuation, patron crowd control and emergency access for police, fire and ambulance;

(5) Detailed plans and drawings of the haunted house, indoor or haunted walk/field, outdoor shall be submitted to the Office of Central Inspection and the Wichita Fire Department, indicating the waiting area for persons seeking admission, the parking areas, all restrooms, emergency exits and all other areas accessible by patrons;

(6) A statement as to whether the applicant has ever had any license denied, revoked or suspended by the City of Wichita or the State of Kansas or any other governmental entity, the reason therefor and the business activity or occupation of the individual subsequent to such suspension, revocation or denial;

(7) A statement as to whether the applicant has ever been convicted of a felony or other crime as set forth in this section which would make the applicant ineligible to be licensed pursuant to the terms of this Chapter;

(8) A statement that the applicant consents and agrees that any member of the Police Department, Fire Department, Office of Central

Inspection and Department of Public Works & Utilities may, at any time, enter and inspect any part of such premises.

(c) A license shall be denied if one or more of the following conditions exist:

(1) Any applicant, owner, officer, manager or director of a corporate applicant, any person owning twenty-five percent (25%) or more of the stock of a corporate applicant, or any partner of a partnership applicant if the partner has, within the preceding ten years, been convicted of or placed on diversion for a:

a. Felony;

b. A crime for which the individual is required to register as a sex offender pursuant to K.S.A. 22-4901, *et seq.* or laws or statutes in other local, state or federal jurisdictions which require an offender to be registered as a sex offender;

c. For any conviction or diversion of a misdemeanor within the last three years involving:

i. Laws pertaining to any controlled substance(s) prohibited by the Uniform Controlled Substance Act, K.S.A. 65-4101, *et seq.* or other laws of the state of Kansas or the United States and amendments thereto;

ii. Prostitution;

iii. Public Indecency;

iv. A sex crime or other person crime as defined by Chapter 21 of the Kansas Statutes Annotated;

v. Any weapons charge.

(2) An applicant is less than twenty-one (21) years of age;

(3) The premises do not comply with the health, building, fire, electrical, mechanical, plumbing, elevator and zoning codes of the City of Wichita, except as allowed by the provisions of Section 3.22.020(c) regarding the location of the temporary haunted house, indoor or haunted walk/field, outdoor;

(4) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(5) The application is incomplete or if it contains any material misrepresentation.

(6) The applicant, in the last two years has violated the provisions of this Chapter or has had a previous haunted house, indoor or haunted walk/field, outdoor license revoked for failure to comply with the term and conditions of the license or for violations of the ordinances of the City of Wichita.

(d) The application is filed with, and the license fee is paid to the City Treasurer. The license will not be issued until the application has been reviewed and approved by the Chief of Police, the Office of Central Inspection and the Fire Chief.

(e) No permanent haunted house, indoor license will be issued to any facility which is not property zoned for “Recreation and Entertainment, Indoor” pursuant to the Wichita-Sedgwick County Unified Zoning Code. All activities of a permanent haunted house, indoor must occur completely inside the structure or facility licensed as a permanent haunted house, indoor.

(f) Applications for a license or renewal will not be accepted by the City Treasurer less than thirty (30) days prior to the opening of the haunted house, indoor or haunted walk/field, outdoor, or expiration of a current license.”

SECTION 5. Section 3.22.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Liability insurance.** (a) No person within the corporate limits of the city shall be licensed to engage in the operation of a haunted house, indoor or haunted field/walk, outdoor until he has deposited and filed with the City Treasurer, a public liability insurance policy with coverage of not less than five hundred thousand dollars for injury or death to any one person and one million dollars for injury or death to any number of persons in any one accident.

(b) It is unlawful for any person to operate a haunted house, indoor or haunted walk/field, outdoor without obtaining and maintaining in force, during the operation of the haunted house, indoor or haunted walk/field, outdoor, liability insurance in the amounts required by this Code.

(c) It is the responsibility of the licensee to notify the City Treasurer of any change, cancellation or termination of insurance coverage.”



SECTION 6. Section 3.22.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Standards, rules and regulations.** Every person engaging in, conducting, pursuing or operating a haunted house, indoor or haunted walk/field, outdoor within the corporate limits of the city, shall comply with the following standards, rules and regulations covering the operation of the haunted house, indoor or haunted walk/field, outdoor:

(a) Before any license is issued, the building or structure shall be inspected and approved by representatives of the Office of Central Inspection and the Fire Department.

(b) The building or structure shall be of sound structural condition.

(c) Fire protection shall be provided as required by the Fire Department and currently adopted construction codes. This shall include, but not be limited to, fire extinguishers, an approved automatic fire detection system, sprinkler system and an emergency notification system with a prerecorded, approved message.

(d) Each floor level shall be provided with at least two approved exits, and steps with three or more risers shall be equipped with handrails.

(e) Exit and emergency lighting shall be provided.

(f) All mazes and/or hallways shall not be less than forty-two inches wide.

(g) All mazes shall have exit facilities each twenty feet.

(h) All decorations and materials used shall be flame resistant or treated and maintained fire retardant.

(i) All employees must be trained in emergency procedures regarding evacuation of the facility.

(j) All emergency staff shall carry flashlights and know the location of all exits, fire extinguishers, light switches, electrical panels and emergency phones;

(k) Open flames or space heaters are prohibited;

(l) Storage or use of flammable or combustible liquids, gasses and solids is prohibited.

(m) All buildings or structures and the surrounding grounds and premises shall be cleaned, inspected and secured after the operation is closed for the season.

(n) A telephone shall be available on the premises for emergency use at all times when the premises are open to the public.

(o) Off-street parking shall be located on the licensed premises or on an abutting lot immediately adjacent to the structure or facility.

(p) All electrical facilities, wiring, appliances, motors and devices of whatever nature shall be approved by the Office of Central Inspection.

(q) Structural materials, electrical facilities, mechanical devices, decorations, appliances, motors and other devices of whatever nature shall be constructed, used and maintained so that no hazard is created.

(r) Suitable arrangements for restroom facilities and sanitary sewage disposal must be provided. A minimum of one toilet or portable toilet shall be provided for every two hundred people based on the approved maximum premises capacity (occupant load) of the facility. Each facility will have at least one toilet which is handicap accessible.

(s) The property and all structures shall be maintained in a clean and sanitary manner by the owner or operator.

(t) The audience of any haunted house, indoor or haunted walk/field, outdoor must be orderly at all times and it shall be unlawful for any person attending such haunted house, indoor or haunted walk/field, outdoor to create a disturbance in the audience.

(u) Noise may not exceed the maximum allowable noise levels established in Chapter 7.41 of the Code of the City of Wichita. Noise shall not be of such volume, intensity or duration as to disturb a person or reasonable sensibilities. The licensee, manager or responsible person shall be strictly liable for all noise produced within the licensed facility or structure.

(v) Haunted houses, indoor shall not be opened earlier than noon nor remain open later than two a.m. Haunted walks/fields, outdoor shall not be opened earlier than noon nor remain open later than eleven p.m. Sunday through Thursday or later than twelve a.m. on Friday or Saturday.

(w) Any modifications to plans submitted and approved, at the time of licensing or licensing renewal, must be inspected and approved by the Office of Central Inspection and the Fire Department.”

SECTION 7. Section 3.22.062 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Right of Access.** During any hours in which any person is present on the premises, all haunted houses, indoor and haunted walks/fields, outdoor shall be open to inspection by the Wichita Fire Department, Office of Central Inspection officials, Department of Public Works & Utilities officials and Wichita Police Department or other law enforcement agencies.”

SECTION 8. Section 3.22.065 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Premises capacity.** It shall be the duty of the Fire Chief and the Superintendent of Central Inspection to determine the number of persons who can be safely accommodated at any one time in any building, premises or location where any haunted house, indoor or haunted walk/field, outdoor is located. The Fire Chief and the Superintendent of Central Inspection shall rate and limit the maximum occupant load of the building, premises or location and furnish a certificate thereof to the owner or operator of such haunted house, indoor or any building or structure which is part of a haunted walk/field, outdoor, which owner shall be required to post such certificate near the main entrance in the facility. Such owner, operator, licensee or responsible person is hereby required to limit the attendance at such haunted house, indoor or haunted walk/field, outdoor to such maximum occupant load capacity as has been determined by the Fire Chief and Superintendent of Central Inspection. It shall be unlawful to post a certificate

of maximum occupant load showing a greater capacity than that shown by the Office of Central Inspection and Fire Chief.”

SECTION 9. Section 3.22.067 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Inspection of Premises.** It shall be unlawful to conduct or operate any haunted house, indoor or haunted walk/field, outdoor which has not been inspected and approved by the Office of Central Inspection and the Fire Department.”

SECTION 10. Section 3.22.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Penalty for violation of chapter.** Any person who violates any provisions of this chapter, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars. Each day's violation shall be a separate offense.”

SECTION 11. Section 3.22.080 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Administrative procedures.** (a) A haunted house, indoor or haunted walk/field, outdoor license may be suspended, or revoked if:

(1) Any information furnished on the application is incomplete, false or is not updated as required by this Chapter;

(2) Failure to comply with any condition of the haunted house, indoor or haunted walk/field, outdoor license;

(3) The licensee or a manager has become ineligible to hold a license;

(4) The owner, manager, partner, director or other person owning twenty-five percent or more of the stock of a corporate licensee or a partner of a partnership licensee is convicted of any violation or crime which would make them ineligible to obtain a haunted house, indoor or haunted walk/field, outdoor license;

(5) The premises are in violation of the health, building, fire, electrical, mechanical, plumbing, elevator or zoning codes, except as allowed by Section 3.22.020(c) of the City of Wichita regarding the location of the haunted house, indoor or haunted walk/field, outdoor, or the laws of the State of Kansas;

(6) Evidence of a material variance in the actual plan and design of the premises from the plans submitted pursuant to this Chapter, or from the original design of the premises when initially licensed;

(7) Any law enforcement officer, Fire Department, Public Works & Utilities or Office of Central Inspection official, is refused access to inspect the premises during normal business hours;

(8) The premises are in violation of the maximum occupant load of such building, structure or facility;

(9) The licensee or any employee or agent of the licensee is found to be in violation of the provisions of this chapter or any other ordinance, rule or regulation of the City of Wichita.

For the purposes of this section, ‘*conviction*’ or ‘*violation*’ shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

(b) The Superintendent of Central Inspection, Fire Chief or Chief of Police shall provide written notice of the intent to revoke or suspend a haunted house, indoor or haunted walk/field, outdoor license by personal service or by certified mail, return receipt requested. The notice shall be sent to the mailing address of the licensee on file with the City Treasurer. The notice shall provide the effective date of the revocation or suspension of the license. Such notice shall detail the reasons or basis for the revocation or suspension of the license. No revocation or suspension shall be imposed on less than five days notice to the licensee, and shall specify the rights of the licensee to appeal any such revocation or suspension.”

SECTION 12. Section 3.22.090 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Appeal Procedure.** (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of a haunted house, indoor or haunted walk/field, outdoor license may file with the City Clerk a written notice of appeal to the City Council within ten (10) business days of the decision by the Superintendent of Central Inspection, Chief of Police or Fire Chief or their designees. The Notice of Appeal shall specify:

- (1) the name and address of the appellant;
- (2) the date of application;

(3) the date of the denial, suspension or revocation of the license or application;

(4) the factual basis for the appeal.

(b) Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than twenty days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license until the matter is heard by the City Council.

(c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Superintendent of Central Inspection, Chief of Police or Fire Chief.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, revocation, modification or suspension of the license by the City Council.”

SECTION 13. The originals of Sections 3.22.010, 3.22.020, 3.22.040, 3.22.050, 3.22.060 and 3.22.070 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 14. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Carl Brewer, Mayor



ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law

First Published in The Wichita Eagle on \_\_\_\_\_

DELINEATED

07/01/2011

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS 3.22.010, 3.22.020, 3.22.040, 3.22.060 AND 3.22.070, CREATING SECTIONS 3.22.015, 3.22.035, 3.22.062, 3.22.065, 3.22.067, 3.22.080 AND 3.22.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO HAUNTED HOUSES, HALLOWEEN HOUSES, MYSTERY MANSIONS AND GHOST WALKS AND REPEALING THE ORIGINALS OF SECTIONS 3.22.010, 3.22.020, 3.22.040, 3.22.050, 3.22.060 AND 3.22.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.22.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Definitions.** 'Chief of Police' means the Chief of the Wichita Police Department or his/her designee;

'Fire Chief' means the Director of the Fire Department of the City of Wichita, Kansas, or his/her designee;

'Halloween Season' means the period of time from September 1st through November 2nd of any calendar year;

A ~~'h~~H~~aunted h~~H~~ouse, Indoor' halloween house, mystery mansion,' etc.,~~  
~~for the purpose of this chapter, includes and~~ means a any indoor permanent or  
temporary building, or any other structure or installation facility, or portion

thereof, which provides walkways or any other system that transports passengers through a facility or course so arranged that the means of egress are not readily apparent due to theatrical distractions or displays, are not plainly visible due to low illumination, or are not readily accessible or available due to the type of course, pathways or method of transportation through the building or structure, and where~~in~~ the public is invited to view, be entertained, scared or ~~and~~ amused by simulated creations of sound, theatrical displays or distractions, or sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature in the spirit of and celebration of the holiday known as Halloween. Unless otherwise specified, such term shall include temporary and permanent haunted houses, indoor.

‘Haunted Walk/Field, Outdoor’ means an attraction similar to haunted houses, indoor, which occurs primarily outdoors but may include both outdoor or indoor areas where egress to a public way is not readily identifiable, where the public is invited to view, be entertained, scared or amused by simulated creations of sound, theatrical distractions, sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature in the spirit of and celebration of the holiday known as Halloween.

‘Permanent Haunted House’ means a ‘Haunted House, Indoor’ that meets the requirements of the Wichita-Sedgwick County Unified Zoning Code as related to “Recreation and Entertainment, Indoor” uses, as well as all City of Wichita building, fire, electrical, elevator, mechanical, plumbing and sewer codes, which may operate year round.

‘Person’ means any individual, firm, association, company, partnership, or other legal entity.

‘Superintendent of Central Inspection’ means the superintendent or person in charge of the Office of Central Inspection of the City or his/her designee

‘Temporary Haunted House, Indoor or Temporary Haunted Walk/Field, Outdoor’ means a haunted house, indoor, or haunted walk/field, outdoor that is operated only during the Halloween Season.”

SECTION 2. Section 3.22.015 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Enforcement of provisions of Code.** (a) The Office of Central Inspection of the City of Wichita, the Wichita Police Department, the Wichita Fire Department, the Wichita Department of Public Works & Utilities and the authorized representatives of such departments, shall be responsible for the enforcement of all provisions of this Code.

(b) The provisions of this Code are in addition to any other health, fire, zoning, building code or life safety requirements within the ordinances of the Code of the City of Wichita or laws of the State of Kansas.”

SECTION 3. Section 3.22.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License or permit required--Fee.** (a) It is unlawful for any person to engage, conduct, pursue, ~~or~~ operate, authorize or permit, within the corporate limits of the city, a temporary haunted house, indoor or haunted walk/field, outdoor, ~~halloween house, mystery mansion, etc., as a commercial for profit~~

~~enterprise or noncommercial nonprofit enterprise~~ whether or not an admittance fee is charged, without ~~having first obtained~~ obtaining a license ~~therefor~~ from the ~~eCity license collector~~ Treasurer and ~~paid~~ paying a ~~seasonal~~ license fee of ~~fifty~~ one hundred dollars; ~~provided, however, that~~

In addition to the application fee, an inspection fee not to exceed fifty dollars (\$50.00) will be assessed for each subsequent inspection(s) of the property by the Office of Central Inspection or the Fire Department to determine compliance with the provisions of this Code at the time of licensing. No inspection fee shall be assessed for the initial inspection. Further, the applicant or his/her contractors or other agents are responsible for obtaining any and all permits and inspections required pursuant to the building, fire, electrical, mechanical, plumbing and elevator codes of the City of Wichita.

(b) It is unlawful for any person to engage, conduct, pursue, operate, authorize or permit, within the corporate limits of the city, a permanent haunted house, indoor, whether or not an admittance fee is charged, without first obtaining a license from the City Treasurer and paying a license fee of two hundred fifty dollars;

In addition to the application fee, an inspection fee not to exceed fifty dollars (\$50.00) will be assessed for each subsequent inspection(s) of the property by the Office of Central Inspection or the Fire Department to determine compliance with the provisions of this Code at the time of licensing, or during the annual license period when modifications to egress paths or systems, theatrical distraction or displays, or egress path illumination are made. Such modifications

must be inspected and approved by the City of Wichita Fire Department and/or Office of Central Inspection. No inspection fee shall be assessed for the initial annual license inspection. Further, the applicant or his/her contractors or other agents are responsible for obtaining any and all permits and inspections required pursuant to the building, fire, plumbing, sewer, mechanical, elevator and electrical codes of the City of Wichita.

(c) ~~n~~No such license shall be issued for the operation of a haunted house, indoor or haunted walk/field, outdoor, ~~halloween house, mystery mansion, etc.,~~ in any residential zoning district except those located in buildings of churches, schools or ~~other institutional uses until the application therefor is approved by the office of central inspection and the fire department~~ upon public property with the written approval of the municipality, department or agency authorized to issue such approval for use of the property.

(d) The license ~~and license fee~~ for temporary haunted houses, indoor or haunted walks/fields, outdoor shall ~~only~~ be ~~good~~ effective for one annual Halloween ~~holiday s~~Season, ~~not to exceed thirty consecutive days before and thirty consecutive days after the Halloween holiday~~ as defined by this chapter.

(b) ~~Any haunted house, halloween house, mystery mansion, etc., conducted by a school in a school building on school grounds or property shall be exempt from paying the seasonal license fee of fifty dollars, but shall be required to obtain a license or permit which shall not be subject to approval by the office of central inspection, and fire department; provided, however, the school authorities for the school shall, by written certification, certify that the operation of the~~

~~haunted house, halloween house, or mystery mansion, etc., is in compliance with all other provisions and requirements of this Code; except for subsections (a), (c), (k) and (l) of Section 3.22.060 of this Code; provided, further, that all structural materials, electrical facilities, mechanical devices, decorations, appliances, motors and other devices of whatever natures shall be constructed, used and maintained so that no hazard is created, and further that all fire prevention precautions have been taken and maintained, and further that adequate parking is available. All other provisions of this Code shall apply.~~

(e) The license for permanent haunted houses, indoor shall be effective for twelve months.”

SECTION 4. Section 3.22.035 of the Code of the City of Wichita is hereby created to read as follows:

**“Application.** (a) Before any license is granted or issued for a haunted house, indoor or haunted walk/field, outdoor, an application shall be filed with the City Treasurer, setting forth the following facts:

(1) The name, address, date of birth of the applicant and a telephone number where the applicant can be reached between the hours of eight a.m. and five p.m. and during the hours of operation of the haunted house, indoor or haunted walk/field, outdoor;

(2) Address of the haunted house, indoor or haunted walk/field, outdoor;

(3) Property owner’s name, address and phone number;

(4) Dates for which the license is desired;

(5) Hours and days the haunted house, indoor or haunted walk/field, outdoor is to be open and closed;

(6) A statement that the applicant is familiar with the conditions imposed by the terms of this chapter;

(7) Written consent of the property owner;

(8) Site and/or floor plan of all proposed indoor or outdoor permanent or temporary buildings, structures, facilities or property;

(9) Plan for parking and restroom facilities;

(10) Maximum occupant load of the buildings, facilities or areas.

(b) In addition, the applicant must furnish:

(1) The name(s) and address(es) of the owner(s) of the premises where such haunted house, indoor or haunted walk/field, outdoor is located;

(2) The manager or operator and, if a corporation or partnership, all the names and addresses of the officers of such corporation or partnership and any individual who owns twenty-five (25) percent or more of the stock of such corporation. If the license is to be held by a corporation, the resident officer of the corporation. If the applicant is a partnership, all the names, addresses, social security numbers and dates of birth of all partners of the partnership;



(3) The name, address and date of birth of the applicant, owner, manager or other responsible person of the haunted house, indoor or haunted walk/field, outdoor;

(4) An emergency management plan, consisting of, but not limited to, fire and storm evacuation, patron crowd control and emergency access for police, fire and ambulance;

(5) Detailed plans and drawings of the haunted house, indoor or haunted walk/field, outdoor shall be submitted to the Office of Central Inspection and the Wichita Fire Department, indicating the waiting area for persons seeking admission, the parking areas, all restrooms, emergency exits and all other areas accessible by patrons;

(6) A statement as to whether the applicant has ever had any license denied, revoked or suspended by the City of Wichita or the State of Kansas or any other governmental entity, the reason therefor and the business activity or occupation of the individual subsequent to such suspension, revocation or denial;

(7) A statement as to whether the applicant has ever been convicted of a felony or other crime as set forth in this section which would make the applicant ineligible to be licensed pursuant to the terms of this Chapter;

(8) A statement that the applicant consents and agrees that any member of the Police Department, Fire Department, Office of Central

Inspection and Department of Public Works & Utilities may, at any time, enter and inspect any part of such premises.

(c) A license shall be denied if one or more of the following conditions exist:

(1) Any applicant, owner, officer, manager or director of a corporate applicant, any person owning twenty-five percent (25%) or more of the stock of a corporate applicant, or any partner of a partnership applicant if the partner has, within the preceding ten years, been convicted of or placed on diversion for a:

a. Felony;

b. A crime for which the individual is required to register as a sex offender pursuant to K.S.A. 22-4901, et seq. or laws or statutes in other local, state or federal jurisdictions which require an offender to be registered as a sex offender;

c. For any conviction or diversion of a misdemeanor within the last three years involving:

i. Laws pertaining to any controlled substance(s) prohibited by the Uniform Controlled Substance Act, K.S.A. 65-4101, et seq. or other laws of the state of Kansas or the United States and amendments thereto;

ii. Prostitution;

iii. Public Indecency;

iv. A sex crime or other person crime as defined by Chapter 21 of the Kansas Statutes Annotated;

v. Any weapons charge.

(2) An applicant is less than twenty-one (21) years of age;

(3) The premises do not comply with the health, building, fire, electrical, mechanical, plumbing, elevator and zoning codes of the City of Wichita, except as allowed by the provisions of Section 3.22.020(c) regarding the location of the temporary haunted house, indoor or haunted walk/field, outdoor;

(4) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(5) The application is incomplete or if it contains any material misrepresentation.

(6) The applicant, in the last two years has violated the provisions of this Chapter or has had a previous haunted house, indoor or haunted walk/field, outdoor license revoked for failure to comply with the term and conditions of the license or for violations of the ordinances of the City of Wichita.

(d) The application is filed with, and the license fee is paid to the City Treasurer. The license will not be issued until the application has been reviewed and approved by the Chief of Police, the Office of Central Inspection and the Fire Chief.

(e) No permanent haunted house, indoor license will be issued to any facility which is not property zoned for “Recreation and Entertainment, Indoor” pursuant to the Wichita-Sedgwick County Unified Zoning Code. All activities of a permanent haunted house, indoor must occur completely inside the structure or facility licensed as a permanent haunted house, indoor.

(f) Applications for a license or renewal will not be accepted by the City Treasurer less than thirty (30) days prior to the opening of the haunted house, indoor or haunted walk/field, outdoor, or expiration of a current license.”

SECTION 5. Section 3.22.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Liability insurance.** (a) No person within the corporate limits of the city shall be licensed to engage in the operation of a haunted house, indoor or haunted field/walk, outdoor until he has deposited and filed with the ~~eCity clerk~~ Treasurer, ~~for the benefit of the city~~ a public liability insurance policy with coverage of not less than ~~twenty-five~~ five hundred thousand dollars for injury or death to any one person and ~~fifty thousand~~ one million dollars for injury or death to any number of persons in any one accident.

(b) It is unlawful for any person to operate a haunted house, indoor or haunted walk/field, outdoor without obtaining and maintaining in force, during the operation of the haunted house, indoor or haunted walk/field, outdoor, liability insurance in the amounts required by this Code.

(c) It is the responsibility of the licensee to notify the City Treasurer of any change, cancellation or termination of insurance coverage.”

SECTION 6. Section 3.22.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Standards, rules and regulations.** Every person engaging in, conducting, pursuing or operating ~~within the corporate limits of the city~~ a haunted house, indoor or haunted walk/field, outdoor, ~~halloween house, mystery mansion, etc.,~~ within the corporate limits of the city, shall comply with the following standards, rules and regulations covering the operation of the haunted house, ~~indoor or , halloween house or mystery mansion, etc.~~ haunted walk/field, outdoor:

(a) Before any ~~application for a license permit or special permit is~~ issued, the building or structure shall be inspected and approved by representatives of the ~~Office of~~ Central ~~i~~nspection and the ~~Fire~~ Department.

(b) The building or structure shall be of sound structural condition.

(c) Fire protection shall be provided as required by the ~~Fire~~ Department and currently adopted construction codes. This shall include, but not be limited to, fire extinguishers, an approved automatic fire detection system, sprinkler system and an emergency notification system with a prerecorded, approved message.

(d) Each floor level shall be provided with at least two approved exits, and steps with three ~~four~~ or more risers shall be equipped with handrails.

(e) Exit and ~~E~~mergency lighting shall be provided.

(f) All mazes and/or hallways shall not be less than ~~two feet six~~ forty-two inches wide.

(g) All mazes shall have exit facilities each twenty feet.

(h) All decorations and materials used shall be flame resistant or treated and maintained fire retardant.

(i) All employees must be trained in emergency procedures regarding evacuation of the facility.

(j) All emergency staff shall carry flashlights and know the location of all exits, fire extinguishers, light switches, electrical panels and emergency phones;

(k) Open flames or space heaters are prohibited;

(l) Storage or use of flammable or combustible liquids, gasses and solids is prohibited.

~~(i)~~ (m) ~~The~~ All buildings or structures and the surrounding grounds and premises shall be cleaned, inspected and secured after the operation is closed for the season.

~~(j)~~ (n) A telephone shall be available on the premises for emergency use at all times when the premises are open to the public.

~~(k)~~ (o) ~~In all locations wherever operated, off-street parking shall be located on the licensed premises or on an abutting lot immediately adjacent to the structure or use except that accessory parking shall not be allowed across arterials or expressway locations~~ facility.

~~(l)~~ (p) All electrical facilities, wiring, appliances, motors and devices of whatever nature shall be approved by the ~~o~~Office of e~~Central i~~nspection.

(q) Structural materials, electrical facilities, mechanical devices, decorations, appliances, motors and other devices of whatever nature shall be constructed, used and maintained so that no hazard is created.

(r) Suitable arrangements for restroom facilities and sanitary sewage disposal must be provided. A minimum of one toilet or portable toilet shall be provided for every two hundred people based on the approved maximum premises capacity (occupant load) of the facility. Each facility will have at least one toilet which is handicap accessible.

(s) The property and all structures shall be maintained in a clean and sanitary manner by the owner or operator.

(t) The audience of any haunted house, indoor or haunted walk/field, outdoor must be orderly at all times and it shall be unlawful for any person attending such haunted house, indoor or haunted walk/field, outdoor to create a disturbance in the audience.

(u) Noise may not exceed the maximum allowable noise levels established in Chapter 7.41 of the Code of the City of Wichita. Noise shall not be of such volume, intensity or duration as to disturb a person or reasonable sensibilities. The licensee, manager or responsible person shall be strictly liable for all noise produced within the licensed facility or structure.

(v) Haunted houses, indoor shall not be opened earlier than noon nor remain open later than two a.m. Haunted walks/fields, outdoor shall not be opened earlier than noon nor remain open later than eleven p.m. Sunday through Thursday or later than twelve a.m. on Friday or Saturday.

(w) Any modifications to plans submitted and approved, at the time of licensing or licensing renewal, must be inspected and approved by the Office of Central Inspection and the Fire Department.”

SECTION 7. Section 3.22.062 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Right of Access.** During any hours in which any person is present on the premises, all haunted houses, indoor and haunted walks/fields, outdoor shall be open to inspection by the Wichita Fire Department, Office of Central Inspection officials, Department of Public Works & Utilities officials and Wichita Police Department or other law enforcement agencies.”

SECTION 8. Section 3.22.065 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Premises capacity.** It shall be the duty of the Fire Chief and the Superintendent of Central Inspection to determine the number of persons who can be safely accommodated at any one time in any building, premises or location where any haunted house, indoor or haunted walk/field, outdoor is located. The Fire Chief and the Superintendent of Central Inspection shall rate and limit the maximum occupant load of the building, premises or location and furnish a certificate thereof to the owner or operator of such haunted house, indoor or any building or structure which is part of a haunted walk/field, outdoor, which owner shall be required to post such certificate near the main entrance in the facility. Such owner, operator, licensee or responsible person is hereby required to limit the attendance at such haunted house, indoor or haunted walk/field, outdoor to



such maximum occupant load capacity as has been determined by the Fire Chief and Superintendent of Central Inspection. It shall be unlawful to post a certificate of maximum occupant load showing a greater capacity than that shown by the Office of Central Inspection and Fire Chief.”

SECTION 9. Section 3.22.067 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Inspection of Premises.** It shall be unlawful to conduct or operate any haunted house, indoor or haunted walk/field, outdoor which has not been inspected and approved by the Office of Central Inspection and the Fire Department.”

SECTION 10. Section 3.22.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Penalty for violation of chapter.** Any person ~~whether as principal or agent,~~ who violates any provisions of this chapter, shall be guilty of a misdemeanor and shall be punished by a fine of not ~~less than twenty five dollars nor more than one~~ to exceed five hundred dollars. Each day's violation shall be a separate offense.”

SECTION 11. Section 3.22.080 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Administrative procedures.** (a) A haunted house, indoor or haunted walk/field, outdoor license may be suspended, or revoked if:

(1) Any information furnished on the application is incomplete, false or is not updated as required by this Chapter;

(2) Failure to comply with any condition of the haunted house, indoor or haunted walk/field, outdoor license;

(3) The licensee or a manager has become ineligible to hold a license;

(4) The owner, manager, partner, director or other person owning twenty-five percent or more of the stock of a corporate licensee or a partner of a partnership licensee is convicted of any violation or crime which would make them ineligible to obtain a haunted house, indoor or haunted walk/field, outdoor license;

(5) The premises are in violation of the health, building, fire, electrical, mechanical, plumbing, elevator or zoning codes, except as allowed by Section 3.22.020(c) of the City of Wichita regarding the location of the haunted house, indoor or haunted walk/field, outdoor, or the laws of the State of Kansas;

(6) Evidence of a material variance in the actual plan and design of the premises from the plans submitted pursuant to this Chapter, or from the original design of the premises when initially licensed;

(7) Any law enforcement officer, Fire Department, Public Works & Utilities or Office of Central Inspection official, is refused access to inspect the premises during normal business hours;

(8) The premises are in violation of the maximum occupant load of such building, structure or facility;

(9) The licensee or any employee or agent of the licensee is found to be in violation of the provisions of this chapter or any other ordinance, rule or regulation of the City of Wichita.

For the purposes of this section, ‘conviction’ or ‘violation’ shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

(b) The Superintendent of Central Inspection, Fire Chief or Chief of Police shall provide written notice of the intent to revoke or suspend a haunted house, indoor or haunted walk/field, outdoor license by personal service or by certified mail, return receipt requested. The notice shall be sent to the mailing address of the licensee on file with the City Treasurer. The notice shall provide the effective date of the revocation or suspension of the license. Such notice shall detail the reasons or basis for the revocation or suspension of the license. No revocation or suspension shall be imposed on less than five days notice to the licensee, and shall specify the rights of the licensee to appeal any such revocation or suspension.”

SECTION 12. Section 3.22.090 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Appeal Procedure.** (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of a haunted house, indoor or haunted walk/field, outdoor license may file with the City Clerk a written notice of appeal to the City Council within ten (10) business days of the decision by the Superintendent of

Central Inspection, Chief of Police or Fire Chief or their designees. The Notice of Appeal shall specify:

- (1) the name and address of the appellant;
- (2) the date of application;
- (3) the date of the denial, suspension or revocation of the license or application;
- (4) the factual basis for the appeal.

(b) Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than twenty days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license until the matter is heard by the City Council.

(c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Superintendent of Central Inspection, Chief of Police or Fire Chief.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, revocation, modification or suspension of the license by the City Council."

SECTION 13. The originals of Sections 3.22.010, 3.22.020, 3.22.040, 3.22.050, 3.22.060 and 3.22.070 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 14. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

## Statements of Cost:

### SEWER

- a. Constructing Lateral 6, Main 10 Four Mile Creek Sewer to serve Summit Crossing Addition (south of 21<sup>st</sup> Street North, west of 127<sup>th</sup> Street East). Total Cost - \$79,509.21 (plus idle fund interest – \$26.03, plus temporary note interest - \$314.76). Sewer main benefit fee - \$29,100.00. Financing to be issued at this time - \$108,950.00. (744310/468-84579/480-002).
- b. Constructing Lateral 24, Main 13 Southwest Interceptor Sewer to serve Steve Kelley 6<sup>th</sup> Addition (south of Kellogg, west of Maize). Total Cost - \$46,909.41 [plus idle fund interest – (\$17.29), plus temporary note interest - \$197.88]. Sewer main benefit fee - \$3,710.00. Financing to be issued at this time - \$50,800.00. (744312/468-84671/480-004).
- c. Constructing Lateral 1, Main 6A Northwest Interceptor Sewer to serve Stonebridge Commercial Addition (south of 37<sup>th</sup> Street North, east of Maize Road). Total Cost - \$121,214.55 (plus idle fund interest - \$152.13, plus temporary note interest - \$283.32). Sewer main benefit fee - \$0. Financing to be issued at this time - \$121,650.00. (744313/468-84571/480-005).
- d. Constructing Main 6 Cowskin Interceptor Sewer Force Main to serve Southwest Passage and Red Rock Village Additions (south of Pawnee, west of 119<sup>th</sup> Street West). Total Cost - \$187,446.06 (plus idle fund interest - \$691.25, plus temporary note interest - \$162.69). Sewer main benefit fee - \$78,500.00. Financing to be issued at this time - \$266,800.00. (744208/468-84227/480-896).
- e. Constructing Lateral 23, Main 13 Southwest Interceptor Sewer (at Kellogg, east of 119<sup>th</sup> Street West). Total Cost - \$312,181.04 (plus idle fund interest - \$210.27, plus temporary note interest - \$2,108.69). Sewer main benefit fee - \$0. Financing to be issued at this time - \$314,500.00. (744236/468-84351/480-924).
- f. Constructing Lateral 415 Four Mile Creek Sewer to serve Bellechase 2<sup>nd</sup> Addition (east of 127<sup>th</sup> Street East, north of Harry). Total Cost - \$81,622.23 [plus idle fund interest – (\$77.25), plus temporary note interest - \$605.02]. Sewer main benefit fee - \$0. Financing to be issued at this time - \$82,150.00. (744295/468-84551/480-984).
- g. Constructing Lateral 153, Main 4, Sanitary Sewer No. 23 to serve Walnut Grove & Barbee Subdivision (north of 33<sup>rd</sup> Street North, west of Jeanette). Total Cost - \$16,236.64 (plus idle fund interest - \$13.36, plus temporary note interest - \$0). Sewer main benefit fee - \$0. Financing to be issued at this time - \$16,250.00. (744305/468-84598/480-994).
- h. Constructing Lateral 154, Main 4, Sanitary Sewer No. 23 to serve Walnut Grove Addition (south of 35<sup>th</sup> Street North, east of Seneca). Total Cost - \$12,395.23 (plus idle fund interest - \$4.77, plus temporary note interest - \$0). Sewer main benefit fee - \$0. Financing to be issued at this time - \$12,400.00. (744307/468-84613/480-996).
- i. Constructing Lateral 16, Main 7 Northwest Interceptor Sewer to serve Fontana 4<sup>th</sup> Addition (east of 119<sup>th</sup> Street West, north of 29<sup>th</sup> Street North). Total Cost - \$148,888.58 [plus idle fund interest (\$174.78), plus temporary note interest \$886.20]. Sewer main benefit fee - \$0. Financing to be issued at this time - \$149,600.00. (744308/468-84584/480-998).

### STORM WATER SEWER AND STORM WATER DRAIN

- j. Constructing Storm Water Sewer #640 to serve Cedar View Village Addition (east of Greenwich, south of Kellogg). Total Cost - \$123,437.53 (plus idle fund interest - \$493.58, plus temporary note interest - \$1,018.89). Financing to be issued at this time - \$124,950.00. (751473/468-84464/485-364).
- k. Constructing Storm Water Drain #343 to serve Cedar View Village Addition (east of Greenwich, south of Kellogg). Total Cost - \$56,635.32 (plus idle fund interest - \$167.80, plus temporary note interest - \$515.33). Financing to be issued at this time - \$57,318.45. (751474/468-84463/485-365).
- l. Constructing Storm Water Drain #351 to serve Bellechase 2<sup>nd</sup> Addition (east of 127<sup>th</sup> Street East, north of Harry). Total Cost - \$284,072.58 [plus idle fund (\$110.45), plus temporary note interest \$2,087.87]. Financing to be issued at this time - \$286,050.00. (751480/468-84552/485-371).

- m. Constructing Storm Water Drain #355 to serve Summit Crossing Addition (south of 21<sup>st</sup> Street North, west of 127<sup>th</sup> Street East). Total Cost - \$146,712.13 (plus idle fund interest - \$21.86, plus temporary note interest - \$666.01). Financing to be issued at this time - \$147,400.00. (751487/468-84580/485-378).
- n. Constructing Storm Water Drain #368 to serve Silverton Addition (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West). Total Cost - \$153,551.65 (plus idle fund interest - \$398.35, plus temporary note interest - \$0.00). Financing to be issued at this time - \$153,950.00. (751490/468-84681/485-381).
- o. Constructing Storm Water Sewer #658 to serve Waterfront Residential Addition (north of 13<sup>th</sup> Street North, east of Webb). Total Cost - \$388,334.96 (plus idle fund interest - \$847.11, plus temporary note interest - \$267.93). Financing to be issued at this time - \$389,450.00. (751491/468-84682/485-382).

## **WATER**

- p. Constructing Water Distribution System to serve Summit Crossing Addition (south of 21<sup>st</sup> Street North, west of 127<sup>th</sup> Street East). Total Cost - \$65,728.17 (plus idle fund interest - \$23.90, plus temporary note interest - \$267.93). Water main benefit fee - \$15,130. Financing to be issued at this time - \$81,150.00. (735441/448-90423/470-114).
- q. Constructing Water Distribution System to serve Firepoint Addition (west of Webb, south of 37<sup>th</sup> Street North). Total Cost - \$35,112.68 (plus idle fund interest - \$36.26, plus temporary note interest - \$151.06). Water main benefit fee - \$0. Financing to be issued at this time - \$35,300.00. (735443/448-90470/470-116).
- r. Constructing Water Distribution System to serve Angel Fire Addition (north of 47<sup>th</sup> Street South, east of West Street). Total Cost - \$61,553.95 (plus idle fund interest - \$28.12, plus temporary note interest - \$267.93). Water main benefit fee - \$0. Financing to be issued at this time - \$61,850.00. (735444/448-90471/470-117).
- s. Constructing Water Distribution System to serve Steve Kelley 6<sup>th</sup> Addition (south of Kellogg, west of Maize). Total Cost - \$24,146.27 (plus idle fund interest - \$40.92, plus temporary note interest - \$82.81). Water main benefit fee - \$1,930.00. Financing to be issued at this time - \$26,200.00. (73445/448-90473/470-118).
- t. Constructing Water Distribution System to serve Stonebridge Commercial Addition (south of 37<sup>th</sup> Street North, east of Maize). Total Cost - \$73,328.45 (plus idle fund interest - \$25.62, plus temporary note interest - \$280.93). Water main benefit fee - \$41,115.00. Financing to be issued at this time - \$114,750.00. (735446/448-90418/470-119).
- u. Constructing Water Distribution System to serve Cornfield Addition (north of 55<sup>th</sup> Street South east of Seneca). Total Cost - \$18,981.31 (plus idle fund interest - \$68.69, plus temporary note interest - \$0). Water main benefit fee - \$0. Financing to be issued at this time - \$19,050.00. (735448/448-90458/470-121).
- v. Constructing Water Distribution System to serve Silverton Addition (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West). Total Cost - \$63,550.33 (plus idle fund interest - \$149.67, plus temporary note interest - \$0). Water main benefit fee - \$0. Financing to be issued at this time - \$63,700.00. (735449/448-90241/470-122).
- w. Constructing Water Distribution System to serve Davis Gardens Addition (north of Central, west of Sheridan). Total Cost - \$21,971.31 (plus idle fund interest - \$84.69, plus temporary note interest - \$0). Water main benefit fee - \$2,744.00. Financing to be issued at this time - \$24,800.00. (735450/448-90482/470-123).
- x. Constructing Water Distribution System to serve Ideal Acres Addition and Gow Acres Addition (south of 13<sup>th</sup> Street North, east of Zoo Boulevard). Total Cost - \$6,130.99 (plus idle fund interest - \$32.01, plus temporary note interest - \$0). Water main benefit fee - \$687.00. Financing to be issued at this time - \$6,850.00. (735452/448-90490/470-125).
- y. Constructing Water Distribution System to serve Parkwilde Addition (north of 3<sup>rd</sup> Street North, east of North West Street). Total Cost - \$10,311.00 (plus idle fund interest - \$21.00, plus temporary note interest - \$0). Water main benefit fee - \$118.00. Financing to be issued at this time - \$10,450.00. (735454/448-90497/470-127).

**CITY OF WICHITA**  
**City Council Meeting**  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of Vacant Land Located in the 14000 Block of West Kellogg for the West Kellogg Freeway Project (Districts IV and V)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the acquisition.

**Background:** On January 6, 2009, the City Council approved the design concept for the Kellogg Freeway, between 111<sup>th</sup> Street West and 143<sup>rd</sup> Street West. The proposed improvements include widening the freeway from two lanes in each direction to three lanes in each direction, frontage roads, and grade separation at 119<sup>th</sup> Street West and 135<sup>th</sup> Street West. There are 43 tracts which will be impacted by the project. The properties consist of single-family residences, commercial properties, vacant land, and billboards. The vacant tract of land located in the 14000 Block of West Kellogg, on the north side of Kellogg, consists of twelve acres. The only improvement to the property is one billboard advertising sign. An acquisition for road right-of-way is required from the subject parcel. The owner has stated that the billboard could be reset outside of the new right-of-way. The proposed acquisition area consists of 1.72 acres together with a .90 acre temporary construction easement area.

**Analysis:** The owner accepted the appraised offer of \$297,700. This amount is comprised of \$262,231 or \$3.50 per square foot for the land and, \$35,437 or \$0.90 per square foot for the temporary construction easement. The billboard will be handled as a moving expense and paid directly to the billboard company. This is estimated to cost \$9,000.

**Financial Considerations:** A budget of \$308,700 is requested. This includes \$297,700 for the acquisition, \$9,000 for the relocation of the billboard, and \$2,000 for the closing costs and other administrative costs. The funding source is Local Sales Tax (LST) and, State and Federal grant funds administered by the Kansas Department of Transportation.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the real estate agreement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Agreement; and 3) Authorize the necessary signatures.

**Attachments:** Aerial map, tract map, and real estate purchase agreement.



PROJECT: West Kellogg DATE: January 20, 2011  
COUNTY: Sedgwick TRACT NO.: 0020

THE CITY OF WICHITA, KANSAS

**CONTRACT FOR CONVEYANCE**  
**OF REAL ESTATE BY WARRANTY DEED**  
**AND TEMPORARY EASEMENT**

THIS AGREEMENT Made and entered into this 30 day of June, 2011, by and between

Rebah J. Hubbard Revocable Inter Vivos Trust

P.O. Box 205, Derby, KS 67037

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

**WITNESSETH**, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed and Temporary Easement to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "TRACT 20A and EXHIBIT TRACT 20B" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Real property to be acquired as right of way:

1.72 (Acres)

\$262,300.00

Temporary Easement for construction:

0.90 (Acres)

\$35,400.00

Improvement & Buildings acquired with right of way:

Billboard, Not included, being Negotiated Directly with Clear Channel

**TOTAL:** \$297,700

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

**IN WITNESS WHEREOF** The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Rebah J. Hubbard  
Rebah J. Hubbard Trustee of the  
Rebah J. Hubbard Revocable Inter Vivos Trust

By: \_\_\_\_\_

THE CITY OF WICHITA

ATTEST:

By: \_\_\_\_\_  
Carl Brewer, Mayor

By: \_\_\_\_\_  
Karen Sublett, City Clerk

## MEMORANDA

Exact and full name of owner, as name appears of record:

Rebah J. Hubbard Revocable Inter Vivos Trust

If mortgage or other liens, show names of holders:

N/A

## REMARKS:

PIN/APN AT 00184

Security Title File Number 2002232

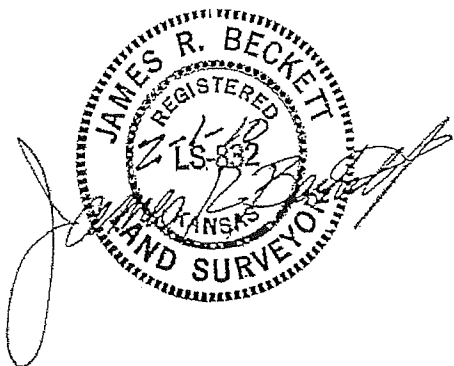
APPROVED TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

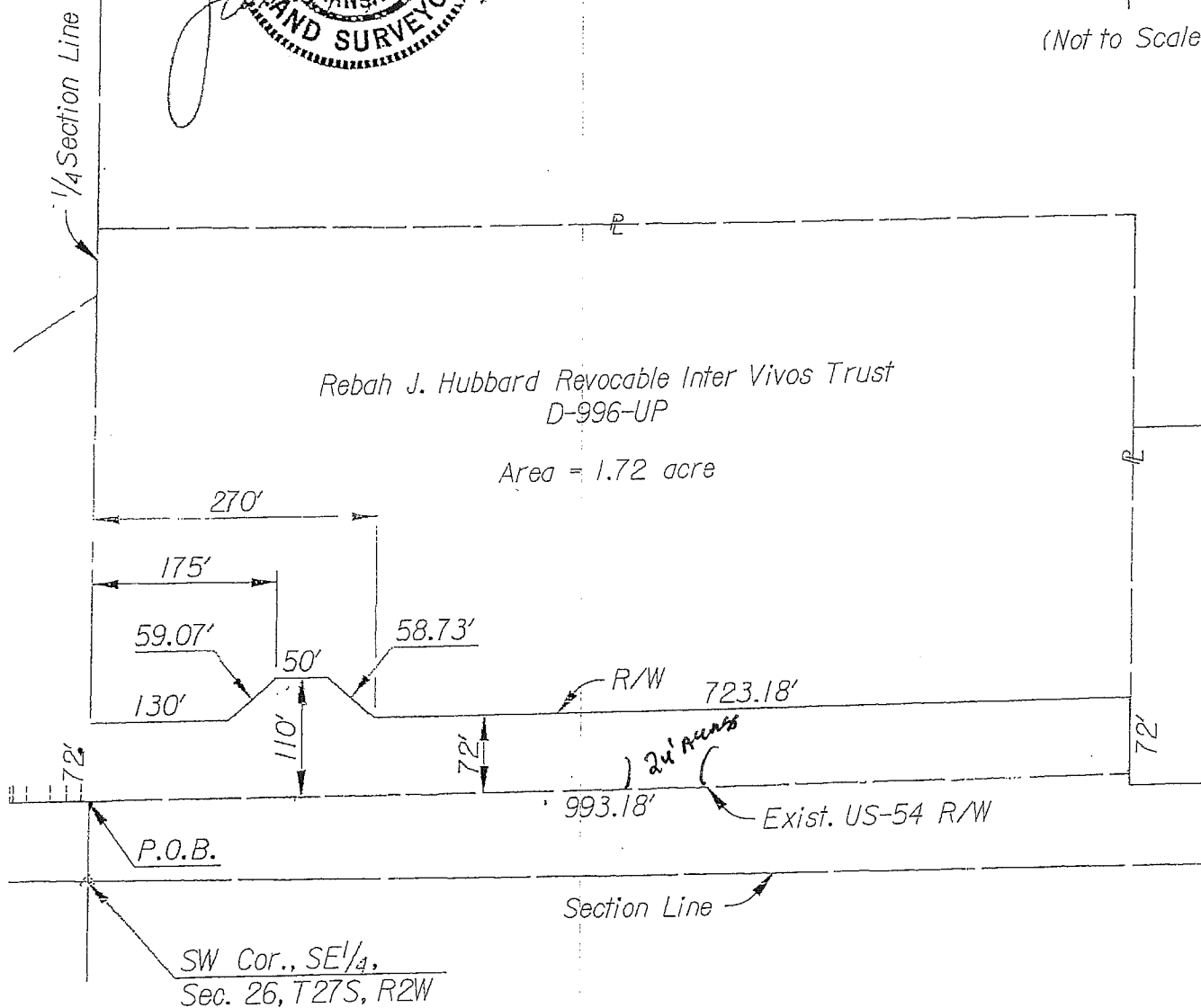
RECOMMENDED BY:

Joseph J. Vorstenbosch  
Joseph J. Vorstenbosch, Project Manager

Tract #20A - D-996-UP  
Easement for Right of Way



(Not to Scale)

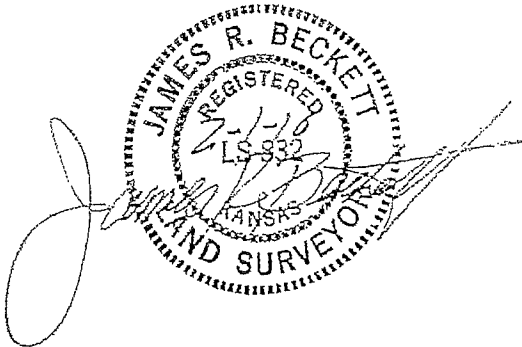


Tract #20A – D-996-UP

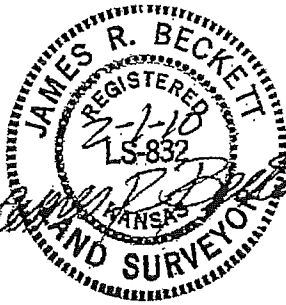
Rebah J. Hubbard Revocable Inter Vivos Trust

Easement for Right-of-Way

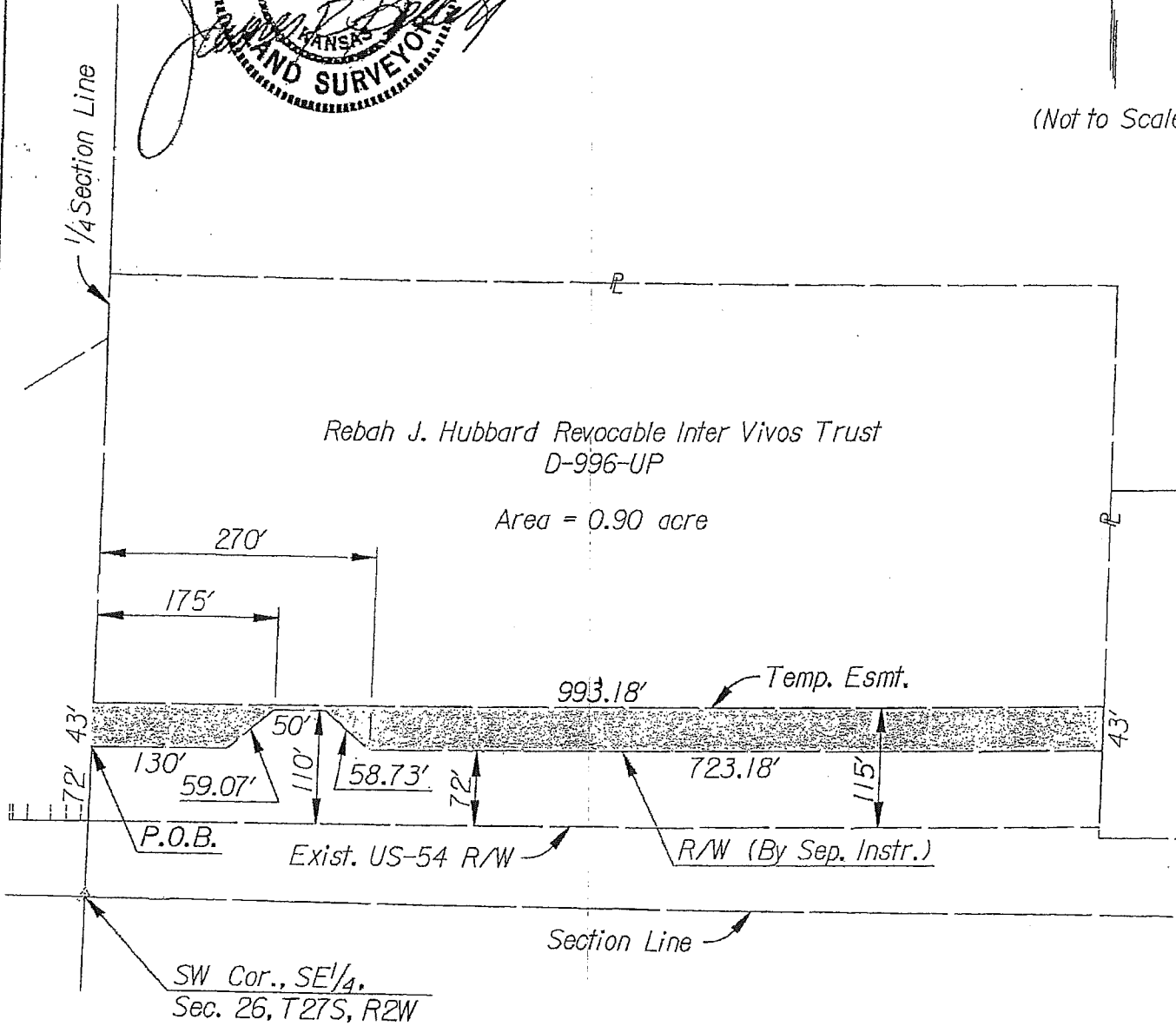
Beginning at the intersection of the North right-of-way line of U.S. Highway 54 and the West line of the Southeast Quarter of Section 26, Township 27 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence North along said West line a distance of 72 feet; thence East, parallel with said North highway right-of-way line, a distance of 130 feet; thence Northeasterly for a distance of 59.07 feet to a point 175 feet East of said West line and 110 feet North of said North highway right-of-way line; thence East, parallel with said North highway right-of-way line, a distance of 50 feet; thence Southeasterly for a distance of 58.73 feet to a point 270 feet East of said West line and 72 feet North of said North highway right-of-way line; thence East, parallel with said North highway, a distance of 723.18 feet more or less to a point on the East line of the West 30 acres of the Southwest Quarter of said Southeast Quarter; thence South along said East line a distance of 72 feet to a point on said North highway right-of-way line; thence West along said North highway right-of-way line a distance of 993.18 feet more or less to the point of beginning, containing 1.72 acres more or less.



Tract #20B - D-996-UP  
Temporary Construction Easement



(Not to Scale)



**Tract #20B – D-996-UP**

**Rebah J. Hubbard Revocable Inter Vivos Trust  
Temporary Construction Easement**

Commencing from the intersection of the North right-of-way line of U.S. Highway 54 and the West line of the Southeast Quarter of Section 26, Township 27 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence North along said West line a distance of 72 feet to the point of beginning; thence East, parallel with said North highway right-of-way line, a distance of 130 feet; thence Northeasterly for a distance of 59.07 feet to a point 175 feet East of said West line and 110 feet North of said North highway right-of-way line; thence East, parallel with said North highway right-of-way line, a distance of 50 feet; thence Southeasterly for a distance of 58.73 feet to a point 270 feet East of said West line and 72 feet North of said North highway right-of-way line; thence East, parallel with said North highway, a distance of 723.18 feet more or less to a point on the East line of the West 30 acres of the Southwest Quarter of said Southeast Quarter; thence North along said East line a distance of 43 feet to a point 115 feet North of said North highway right-of-way line; thence West, parallel with said North highway right-of-way line, a distance of 993.18 feet more or less to a point on said West line; thence South along said West line a distance of 43 feet to the point of beginning, containing 0.90 acres more or less.



# 14000 Block West Kellogg



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

**CONTRACTS & AGREEMENTS  
BLANKET PURCHASE ORDERS RENEWAL OPTIONS  
JUNE 2011**

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Actuarial Consulting Services Wichita Retirement and Police and Fire Retirement Systems	6/30/2011	Milliman, Inc.	Finance, Police and Fire	7/1/2007 - 6/30/2008	1 - 1 year option
Closed Captioning Services for City 7	6/30/2012	Caption Colorado, LLC	City Manager	7/1/2009 - 6/30/2010	2 - 1 year options
Cowskin Creek Wetlands Monitoring Services	6/30/2012	Burns & McDonnell	Public Works & Utilities	7/1/2010 - 6/30/2011	3 - 1 year options
Employee Health & Benefit Consulting Services	6/30/2012	Aon Risk Services	Finance	7/8/2008 - 6/30/2009	1 - 1 year option
Haunted Attraction at Wilson Park	6/30/2012	Prairie Pines Festivals, LLC	Parks & Recreation	7/21/2010 - 6/30/2011	3 - 1 year options
Janitorial Services for the Transit Centers	6/30/2012	Steam Supreme Carpet and Upholstery Cleaning	Transit	7/1/2010 - 6/30/2011	1 - 1 year option
Maintenance Service on Power Files	6/30/2012	Records Retrieval Systems	Police	7/1/2002 - 6/30/2003	Annual basis
Methane (Surface) Monitoring & Reporting at Brooks Landfill	6/30/2012	Aquaterra Environmental Solutions, Inc.	Public Works & Utilities	8/1/2010 - 6/30/2011	3 - 1 year options
Paint, Exterior	6/30/2011	PPG Architectural Finishes Inc. DBA Porter Paints	Housing & Community Services	7/1/2009 - 6/30/2010	1 - 1 year option
Paper Products, Group 5 - Items 1 & 2, Group 9	6/30/2012	Massco, Inc.	Various	7/1/2010 - 6/30/2011	1 - 1 year option
Paper Products, Group 7	6/30/2012	Lafe T. Williams & Associates	Various	7/13/2010 - 6/30/2011	1 - 1 year option
Paper Products, Groups 1 & 3	6/30/2012	Southwest Paper Company, Inc.	Various	7/1/2010 - 6/30/2011	1 - 1 year option
Paper Products, Groups 2, 6 & 8, Group 10, Items 1-3	6/30/2012	XPEDX	Various	7/1/2010 - 6/30/2011	1 - 1 year option
Police Leather Accessories - Groups 3, 4 & 7	6/30/2011	Smart Security and Investigations, Inc. DBA SSI Equipment and Supply	Police	7/1/2009 - 6/30/2010	1 - 1 year option
Public Internet Access for Branch Libraries	6/30/2012	Hubris Communications, Inc.	Library	7/1/2010 - 6/30/2011	1 - 1 year option
Reprographic Services	6/30/2012	City Blue Print, Inc.	Various	7/1/2010 - 6/30/2011	1 - 1 year option
Waterworks Fittings	6/30/2012	Wichita Winwater Works Company	Public Works & Utilities	7/1/2010 - 6/30/2011	1 - 1 year option

**PROFESSIONAL CONTRACTS UNDER \$25,000  
JUNE 2011**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Alliance Transportation Group Inc.	PO130474	Transportation Consulting	20,000.00		
MKEC Engineering Consultants Inc.	PO130479	Analytical Studies and Surveys (Consulting)	11,000.00		

**ANNUAL MAINTENANCE CONTRACTS OVER \$25,000  
DIRECT PURCHASE ORDERS FOR JUNE 2011**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Progressive Solutions Inc.	DP130447	Software Maintenance/Support	\$40,629.50		
MSN Communications	DP130450	Software Maintenance/Support	\$50,261.48		
Cogsdale Holdings LTD	DP130469	Software Maintenance/Support	\$92,779.70		
People Services Center Inc.	DP130471	Software Maintenance/Support	\$26,600.00		
Deft Marketing, LP	DP130476	Software Maintenance/Support	\$40,638.00		
Deft Marketing, LP	DP130477	Software Maintenance/Support	\$30,828.95		
Galaxie Business Equipment Inc.	DP130494	Software Maintenance/Support	\$56,565.00		



City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Collateral Assignment of DSW Broadview Industrial Revenue Bonds (DSW Broadview, LLC) (District VI)

**INITIATED BY:** Office of Urban Development

**AGENDA:** Consent

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**Recommendation:** Adopt the Resolution.

**Background:** On August 26, 2008, City Council approved a letter of intent to Drury Southwest Inc. (“DSW”) that included the issuance of industrial revenue bonds (IRBs) in the amount not-to-exceed \$25,000,000, plus property tax abatement, management of the Broadview Garage, and other incentives for the acquisition and renovation of the Broadview Hotel. On October 23, 2008, the City Council approved the issuance of the IRBs, which have been issued in installments during the construction of the hotel renovations and were purchased by DSW with the intent that the bonds would be used to secure conventional financing after completion of the renovations and the reopening of the hotel.

Hotel renovations are now nearly complete and DSW has made arrangements for a permanent bank loan from Sunflower Bank. DSW and Sunflower Bank are requesting City Council approval of a pledge of the IRBs and the consent to collateral assignment of certain agreements between DSW and the City that are needed to secure the bank loan.

**Analysis:** The individual elements of the requested City Council action are outlined below.

**Bond Pledge Agreement:** The bond ordinance authorized the issuance of three series of taxable IRBs in an aggregate principal amount not-to-exceed \$25 million to finance the acquisition and renovation of the Hotel and parking garage. All three series of bonds were initially purchased by DSW. The senior lien series are to be pledged as collateral to secure DSW’s bank financing with Sunflower Bank; one subordinated series will be held as equity by DSW, and the other subordinated series will be eventually transferred to limited partners who purchase Historic Preservation tax credits.

The IRB issuance also included a 100% 5+5-year tax abatement for hotel property financed by IRBs. In order for the tax abatement to remain in place, the IRBs must remain outstanding during the term of the abatement. Under the attached Bond Pledge Agreement the IRBs will become collateral for the loan. Since the property financed by the IRBs is owned by the City and leased to DSW during the term of the bonds, the pledge of the IRBs would allow the bank to take ownership of the IRBs in the event of a loan default and surrender them for cancellation, thereby clearing the way for a mortgage foreclosure.

**Collateral Assignment of Lease:** The IRB Lease Agreement is the contract between the City and DSW that allows DSW to have physical possession and operational control of the hotel property. By taking a collateral assignment of the Lease Agreement, in the event of a loan default Sunflower Bank may assume DSW’s position in the Lease Agreement, for the purpose of operating the hotel or selling it to another hotel operator. However, any further assignment of the IRB Lease Agreement requires additional City Council approval.

**Collateral Assignment of Management Agreement:** The Parking Garage Management Agreement between DSW and the City allows for use of the City-owned garage by both hotel guests and the general public, under management of the Hotel. Under the management agreement, the garage is to be open to the public at all reasonable business hours and for events at nearby venues and DSW is authorized to charge market rates for the public's use of the garage. DSW is responsible for maintenance and repair of the garage and can recover the costs of certain initial repairs from operating income. The management fee is equal to one-half of any garage operating cash flow remaining after operating expenses, repair and maintenance expenses and reserves.

The attached Collateral Assignment of Management Agreement allows Sunflower Bank to assume DSW's position in the garage management agreement in the event of a loan default. Operational control over adequate parking is considered crucial for successful hotel operations and the bank requires the assignment of the management agreement as part of the collateral package. However, any further assignment of the Parking Garage Management Agreement will require additional City Council approval.

**Collateral Assignment of Real Estate Option:** As part of the incentive package, the City agreed to grant DSW an option to purchase the Broadview Parking Garage starting in October 2013 at a purchase price of \$800,000. The Real Estate Option stipulates that the parking garage shall be operated as a public parking facility, open to the general public for as long as the structure is operated as a parking garage. Sunflower Bank believes that the garage purchase option contributes significantly to the value of the Broadview Hotel and therefore requires the assignment of the purchase option as part of the loan collateral. Any further assignment of the Real Estate Purchase Option will require additional City Council approval.

**Financial Considerations:** The pledge of the IRBs and consent to assignment of the project-related documents will not have a direct financial impact on the City of Wichita.

**Goal Impact:** Economic Vitality and Affordable Living and Core Area and Neighborhoods. The vitality of the downtown area and the viability of the Century II Convention Center are directly impacted by maintaining first-class hotels in the Core Area.

**Legal Considerations:** The Department of Law has drafted the attached Resolution authorizing the execution of the documents described above and has approved all such documents as to form.

**Recommendation/Actions:** It is recommended that the City Council adopt the Resolution authorizing the execution of the Bond Pledge Agreement, the Collateral Assignment of Lease, the Collateral Assignment of Management Agreement and the Collateral Assignment of Purchase Option.

**Attachments:** Resolution  
Bond Pledge Agreement  
Collateral Assignment of Lease  
Collateral Assignment of Management Agreement  
Collateral Assignment of Purchase Option

## **BOND PLEDGE AGREEMENT**

**THIS BOND PLEDGE AGREEMENT** (this "Pledge Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by **DSW BROADVIEW, LLC**, a Kansas limited liability company ("Pledgor"), to **SUNFLOWER BANK, NATIONAL ASSOCIATION** ("Lender").

### **W I T N E S S E T H:**

**WHEREAS**, Pledgor is the registered owner of (a) the Industrial Revenue Bonds, Series V, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series V, 2008 Bonds"), (b) the Industrial Revenue Bonds, Series VI, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series VI, 2008 Bonds"), and (c) the Industrial Revenue Bonds, Series VII, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series VII, 2008 Bonds"), issued by the City of Wichita, Kansas (the "Issuer") in the initial aggregate principal amount of \$25,000,000.00 (the Series V, 2008 Bonds, the Series VI, 2008 Bonds and the Series VII, 2008 Bonds are collectively referred to as the "Bonds"); and

**WHEREAS**, Lender has made a loan in the principal amount of \$17,000,000.00 to Pledgor and Drury Southwest, Inc. ("Drury") evidenced by that certain Loan Agreement (the "Loan Agreement") and Promissory Note (the "Note") by and among Pledgor, Drury and Lender, of even date herewith (the "Loan Obligation"), and Lender has required Pledgor to pledge the Bonds to Lender as collateral to secure repayment by Pledgor and Drury of their obligations under the Loan Obligation.

**NOW, THEREFORE**, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to such terms in the Loan Agreement.

2. **Pledge and Grant of Security Interests.** To secure the prompt payment and performance in full when due, whether by lapse of time or otherwise, of the Obligations (as defined in Section 3), Pledgor hereby pledges and assigns to Lender, and grants to Lender, a continuing security interest in any and all right, title and interest of Pledgor in and to the Bonds, whether now owned or existing or owned, acquired, or arising hereafter, including the right to vote as bondholder (collectively, the "Pledged Collateral"), as well as all proceeds and products of the foregoing, however and whenever acquired and in whatever form.

Without limiting the generality of the foregoing, it is hereby specifically understood and agreed that Pledgor shall hereafter deliver additional bonds to Lender as collateral security for the Obligations (as hereinafter defined) if additional bonds are issued to Pledgor in connection with the Bonds by the Issuer. Upon delivery to Lender, such additional bonds shall be deemed to

be part of the Pledged Collateral of Pledgor and shall be subject to the terms of this Pledge Agreement whether or not this Pledge Agreement is amended to refer to such additional bonds.

3. Security for Obligations. The security interest created hereby in the Pledged Collateral of Pledgor constitutes continuing collateral security for the Obligations, now existing or hereafter arising pursuant to the Loan Agreement, the Note and all documents in connection therewith, owing from Pledgor to Lender in any capacity, howsoever evidenced, created, incurred or acquired, whether primary, secondary, direct, contingent, or joint and several, including, without limitation, all obligations and liabilities incurred in connection with collecting and enforcing the foregoing (collectively, the "Obligations").

4. Delivery of the Pledged Collateral. Pledgor hereby agrees that:

(a) Pledgor shall deliver to Lender (i) simultaneously with or prior to the execution and delivery of this Pledge Agreement, (A) all original certificates constituting the Bonds as well as duly executed instruments of assignment as attached and required for any re-registration of the Bonds in blank, (B) a certificate from Commerce Bank, N.A., as trustee of the Bonds, certifying the current outstanding principal amount of each of the Bonds, and (C) a consent from Commerce Bank, N.A., as trustee, acknowledging and consenting to this Pledge Agreement and the rights of Lender hereunder, and (ii) promptly upon the receipt thereof by or on behalf of Pledgor, all other certificates and instruments constituting Pledged Collateral of Pledgor, if any. Prior to delivery to Lender, all such certificates and instruments constituting Pledged Collateral of Pledgor shall be held in trust by Pledgor for the benefit of Lender pursuant hereto.

(b) Lender may file a financing statement describing the Pledged Collateral in any applicable public filing office.

5. Representations and Warranties. Pledgor hereby represents and warrants to Lender that so long as any of the Obligations remain outstanding:

(a) The Bonds are duly authorized and validly issued, are otherwise unencumbered, unredeemed and nonassessable and are not subject to the preemptive rights of any person, except in accordance with their terms. There are no options, warrants or other rights outstanding to acquire the Bonds.

(b) Other than the security interest granted hereby, Pledgor is the sole registered owner of the Pledged Collateral and will at all times be the legal and beneficial owner of such Pledged Collateral free and clear of any lien or encumbrance, except as otherwise stated in the Loan Agreement and this Pledge Agreement.

(c) The Pledged Collateral constitutes all of the authorized and issued Bonds of the Issuer related to the Project.

(d) Other than satisfaction of any transfer restrictions as described in the trust indenture applicable to the Bonds, the exercise by Lender of its rights and remedies hereunder

will not violate any law or governmental regulation or any material unwaived contractual restriction binding on or affecting Pledgor or any of Pledgor's property.

(e) No additional authorization, approval or action by, and no additional notice or filing with any governmental authority or with the Issuer is required either (i) for the pledge made by Pledgor or for the granting of the security interest by Pledgor pursuant to this Pledge Agreement or (ii) for the exercise by Lender of its rights and remedies hereunder, other than the necessity for satisfaction of any transfer restrictions and registration requirements as described in the trust indenture applicable to the Bonds.

(f) This Pledge Agreement creates a valid security interest in favor of Lender in the Pledged Collateral. The taking possession by Lender of the certificates representing the Bonds as well as the executed assignments and all other certificates and instruments constituting Pledged Collateral will perfect and establish the first priority of Lender's security interest in the Bonds. Except as set forth in Section 4, no action is necessary to perfect or otherwise prioritize such security interest.

6. Covenants. Pledgor hereby covenants, that so long as any of the Obligations remain outstanding, Pledgor shall:

(a) Warrant and defend title to and ownership of the Pledged Collateral at its own expense against the claims and demands of all parties, other than Pledgor and Lender (including its lawful participants and transferees), claiming an interest therein, keep the Pledged Collateral free from all liens and encumbrances, and not sell, pledge, exchange, transfer, assign, lease or otherwise dispose of Pledged Collateral or any interest therein without the prior written consent of Lender.

(b) Promptly execute and deliver at its expense all further instruments and documents and take all further action that may be necessary and desirable or that Lender may reasonably request in order to (i) perfect and prioritize the security interest created hereby in the Pledged Collateral (including, without limitation, any and all action necessary to satisfy Lender that Lender has obtained a first priority perfected security interest); (ii) enable Lender to exercise and enforce its rights and remedies hereunder in respect of the Pledged Collateral; and (iii) otherwise effect the purposes of this Pledge Agreement.

(c) Other than by issuance of additional bonds becoming Pledged Collateral, Pledgor shall not make or consent to any amendment or other modification or waiver with respect to any of the Pledged Collateral or enter into any agreement or allow to exist any new or additional restrictions with respect to any of the Pledged Collateral.

7. Advances by Lender. On failure of Pledgor to perform any of the covenants and agreements contained herein, Lender may, at its sole option and in its reasonable discretion, upon ten (10) business days prior written notice to Pledgor, perform the same and in so doing may expend such sums as Lender may reasonably deem advisable in the performance thereof, including, without limitation, a payment to obtain a release of a lien or potential lien, expenditures made in defending against any adverse claim and all other expenditures which

Lender may make for the protection of the security hereof or which may be compelled to make by operation of law. All such sums and amounts so expended shall be repayable by Pledgor promptly upon notice and demand from Lender, shall constitute additional Obligations and shall bear interest from the date said amounts are expended at the default rate specified in the Loan Agreement. No such performance of any covenant or agreement by Lender on behalf of Pledgor, and no such advance or expenditure therefor, shall relieve Pledgor of any Event of Default. After an Event of Default, Lender may make any payment hereby authorized in accordance with any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien, title or claim except to the extent such payment is being contested in good faith by Pledgor in appropriate proceedings and against which adequate reserves are being maintained in accordance with GAAP.

8. Event of Default. The occurrence of an event which under the Loan Agreement or the Note shall constitute an Event of Default shall be an Event of Default hereunder (an "Event of Default").

9. Remedies.

(a) General Remedies. Upon the occurrence of an Event of Default and during the continuation thereof, Lender shall have, in respect of the Pledged Collateral, in addition to the rights and remedies provided herein, in the Loan Agreement, and the Note, the rights and remedies of a secured party under the Kansas Uniform Commercial Code or any other applicable law.

(b) Sale of Pledged Collateral. Subject to the limitations and restrictions on the registration, transfer and exchange of the Pledged Collateral set forth in that certain Trust Indenture dated as of October 1, 2008, by and between the Issuer and Commerce Bank, N.A., as Trustee, upon the occurrence of an Event of Default and during the continuation thereof, without limiting the generality of this Section and without notice (provided Pledgor has notice of default), Lender may, in its sole discretion, subject to the limitations of applicable law, sell or otherwise dispose of or realize upon the Pledged Collateral, or any part thereof, in whole or in part, at public or private sale, at such price or prices and on such other terms as Lender may deem commercially reasonable, for cash, credit or for future delivery or otherwise in accordance with applicable law. To the extent permitted by law, Lender may in such event bid for the purchase of such Bonds, Pledgor agrees that, to the extent notice of sale shall be required by law and has not been waived by Pledgor, any requirement of reasonable notice shall be met if notice, specifying the place of any public sale or the time after which any private sale is to be made, is personally served on or mailed postage prepaid to Pledgor in accordance with the notice provisions of the Loan Agreement at least 10 days before the time of such sale. Lender shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(c) Private Sale. Upon the occurrence of an Event of Default and during the continuation thereof, Pledgor recognizes that Lender may deem it impracticable to effect a public sale of all or any part of the Bonds and that Lender may, therefore, determine to make one or more private sales of any such Bonds. Pledgor acknowledges that any such private sale may be at prices and on terms less favorable to the seller than the prices and other terms which might have been obtained at a public sale and, notwithstanding the foregoing, agrees that such private sale shall be deemed to have been made in a commercially reasonable manner.

(d) Retention of Pledged Collateral. In addition to the rights and remedies hereunder, upon the occurrence of an Event of Default, Lender may retain all or any portion of the Pledged Collateral in satisfaction of the Obligations. Unless and until Lender shall have provided such notices, however, Lender shall not be deemed to have retained any Pledged Collateral in satisfaction of any Obligations for any reason.

(e) Deficiency. In the event that the proceeds of any sale, collection or realization are insufficient to pay all amounts to which Lender is legally entitled, Pledgor shall be liable for the deficiency, plus interest thereon at the default rate specified in the Loan Agreement, plus all costs and expenses (including without limitation reasonable attorneys' fees and legal expenses) paid or incurred by Lender to collect such deficiency.

#### 10. Rights of Lender.

(a) Power of Attorney. In addition to other powers of attorney contained herein, Pledgor hereby designates and appoints Lender and each of its designees or agents as attorney-in-fact of Pledgor, irrevocably and with power of substitution, with authority to take any or all of the following actions upon the occurrence and during the continuance of an Event of Default:

- (i) demand, collect, settle, compromise, adjust and give discharges and releases concerning the Pledged Collateral, all as Lender may reasonably determine;
- (ii) commence and prosecute any actions at any court for the purposes of collecting any of the Pledged Collateral and enforcing any other right in respect thereof;
- (iii) defend, settle or compromise any action brought and, in connection therewith, give such discharge or release as Lender may deem reasonably appropriate;
- (iv) to pay or discharge taxes, liens, security interests, or other encumbrances levied or placed on or threatened against the Pledged Collateral;
- (v) to direct any parties liable for any payment under any of the Pledged Collateral to make payment of any and all monies due and to become due thereunder directly to Lender or as Lender shall direct;
- (vi) to exclusively exercise all voting rights as bondholder of the Bonds;

- (vii) to receive payment of and receipt for any and all monies, claims, and other amounts due and to become due at any time in respect of or arising out of any Pledged Collateral;
- (viii) to sign and endorse any drafts, assignments, proxies, stock powers, verifications, notices and other documents relating to the Pledged Collateral;
- (ix) to settle, compromise or adjust any suit, action or proceeding described above and, in connection therewith, to give such discharges or releases as Lender may deem reasonably appropriate;
- (x) to execute and deliver all assignments, conveyances, statements, pledge agreements, affidavits, notices and other agreements, instruments and documents that Lender may determine necessary in order to perfect and maintain the security interests and liens granted in this Pledge Agreement and in order to fully consummate all of the transactions contemplated herein; and
- (xi) to do and perform all such other acts and things as Lender may reasonably deem to be necessary, proper or convenient in connection with protection of the Pledged Collateral.

This power of attorney is a power coupled with an interest and shall be irrevocable for so long as any of the Obligations remain outstanding. Lender shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges and options expressly or implicitly granted to Lender in this Pledge Agreement, and shall not be liable for any failure to do so or any delay in doing so. This power of attorney is conferred on Lender solely to protect, preserve and realize upon its security interest in the Pledged Collateral.

(b) Assignment by Lender. Subject to the limitations of applicable law, Lender may from time to time assign the Obligations and any portion thereof and/or the Pledged Collateral and any portion thereof, and the assignee shall be entitled to all of the rights and remedies of Lender under this Pledge Agreement in relation thereto.

(c) Lender's Duty of Care. Other than the exercise of reasonable care to assure the safe custody of the Pledged Collateral while being held by Lender hereunder, Lender shall have no duty or liability to preserve rights pertaining thereto, it being understood and agreed that Pledgor shall be responsible for preservation of all rights in the Pledged Collateral, and Lender shall be relieved of all responsibility for Pledged Collateral upon surrendering it or tendering the surrender of it to Pledgor. Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if such Pledged Collateral is accorded treatment substantially equal to that which Lender accords its own property, which shall be no less than the treatment employed by a reasonable and prudent agent in the industry, it being understood that Lender shall not have responsibility for taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral.



(d) Release of Pledged Collateral. Lender may release any of the Pledged Collateral from this Pledge Agreement or may substitute any of the Pledged Collateral for other Pledged Collateral without altering, varying or diminishing in any way the force, effect, lien, pledge or security interest of this Pledge Agreement as to any Pledged Collateral not expressly released or substituted, and this Pledge Agreement shall continue as a first priority lien on all Pledged Collateral not expressly released or substituted.

(e) Assignor Rights Under Bonds. Unless and until an Event of Default by Assignor in the performance of any obligations or liability of Assignor to Assignee under the Loan Obligation, Assignor shall have the rights, enjoyment and benefits of the Bonds.

11. Application of Proceeds. Upon the occurrence and during the continuance of an Event of Default, any payments in respect of the Obligations and any proceeds of any Pledged Collateral, when received by Lender in cash or its equivalent, will be applied in reduction of the Obligations in the order determined by Lender in its sole and absolute discretion, and Pledgor irrevocably waives the right to direct the application of such payments and proceeds and acknowledges and agrees that Lender shall have the continuing and exclusive right to apply and reapply any and all such payments and proceeds in Lender's sole discretion, notwithstanding any entry to the contrary upon any of its books and records.

12. Costs of Counsel. At all times hereafter, Pledgor agrees to promptly pay upon demand any and all reasonable costs and expenses of Lender (a) as required under the Loan Agreement or the Note, and (b) as necessary to reasonably protect the Pledged Collateral or to exercise any rights or remedies under this Pledge Agreement or with respect to any Pledged Collateral. All of the foregoing costs and expenses shall constitute Obligations hereunder.

13. Continuing Agreement.

(a) This Pledge Agreement shall be a continuing agreement in every respect and shall remain in full force and effect so long as any of the Obligations remain outstanding. Upon such payment and termination, this Pledge Agreement shall be automatically terminated and Lender shall, upon the request and at the expense of Pledgor (i) promptly return all certificates representing the Bonds, all other certificates and instruments constituting Pledged Collateral and all instruments of assignment which have been delivered to Lender pursuant to this Pledge Agreement and (ii) forthwith release all of its liens and security interests hereunder and shall deliver all Uniform Commercial Code termination statements and/or other documents reasonably requested by Pledgor evidencing such termination. Notwithstanding the foregoing, all releases and indemnities provided hereunder shall survive termination of this Pledge Agreement.

(b) This Pledge Agreement shall continue to be effective or be automatically reinstated, as the case may be, if at any time payment, in whole or in part, of any of the Obligations is rescinded or must otherwise be restored or returned by Lender as a preference, fraudulent conveyance or otherwise under any bankruptcy, insolvency or similar law, all as though such payment had not been made; provided that in the event payment of all or any part of the Obligations is rescinded or must be restored or returned, all reasonable costs and expenses (including, without limitation, any reasonable legal fees and disbursements) incurred by Lender

in defending and enforcing such reinstatement shall be deemed to be included as a part of the Obligations.

14. Amendments; Waivers; Modifications. This Pledge Agreement and the provisions hereof may not be amended, waived, modified, changed, discharged or terminated except in a writing signed by a duly authorized officer of both parties.

15. Successors in Interest. This Pledge Agreement shall create a continuing security interest in the Pledged Collateral and shall be binding upon Pledgor, its successors and assigns and shall inure, together with the rights and remedies of Lender hereunder, to the benefit of Lender and its successors and assigns; provided, however, that Pledgor may not assign its rights or delegate its duties hereunder without the prior written consent of Lender, which consent may be withheld by Lender in Lender's sole and absolute discretion. To the fullest extent permitted by law, Pledgor hereby releases Lender, and its successors and assigns, from any liability for any act or omission relating to this Pledge Agreement or the Pledged Collateral, except for any liability arising from the gross negligence or willful misconduct of Lender or its officers, employees or agents.

16. Notices. All notices required or permitted to be given under this Pledge Agreement shall be in conformance with the notice terms contained in the Loan Agreement.

17. Counterparts. This Pledge Agreement may be executed in any number of counterparts, each of which where so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Pledge Agreement to produce or account for more than one such counterpart.

18. Headings. The headings of the sections and subsections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Pledge Agreement.

19. Governing Law; Submission to Jurisdiction; Venue.

(a) This Pledge Agreement shall be construed in accordance with the laws of the State of Kansas, without regard to principles of conflict of laws, and applicable federal law. Any controversy, claim or dispute arising out of or relating to this Pledge Agreement or the relationship, either during the existence of the relationship or afterwards, between the parties hereto, their permitted assignees, their affiliates, their attorneys, or agents, shall be litigated solely in any state or federal court in the State of Kansas, Sedgwick County. Each party (a) submits to the jurisdiction of such court, (b) waives the defense of an inconvenient forum and all similar defenses, and (c) agrees that valid consent to service may be made by mailing or delivery of such service to the party at the party's last known address.

(b) Pledgor hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Pledge Agreement brought in the courts referred to in subsection (a) hereof

and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

20. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES TO THIS PLEDGE AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS PLEDGE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

21. Severability. If any provision of this Pledge Agreement is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.

22. Entirety. This Pledge Agreement represents the entire agreement of the parties with regard to the subject matter contained herein, and supersedes all prior agreements and understandings, oral or written, if any, among the parties.

23. Other Security. To the extent that any of the Obligations are now or hereafter secured by property other than the Pledged Collateral (including, without limitation, real and other personal property owned by Pledgor), or by a guarantee, endorsement or property of any other person or entity, then Lender shall have the right to proceed against such other property, guarantee or endorsement upon the occurrence of any Event of Default, and Lender has the right, in its sole discretion, to determine which rights, security, liens, security interests or remedies Lender shall at any time pursue, relinquish, subordinate, modify or take with respect thereto, without in any way modifying or affecting any of them or any of Lender's rights or the Obligations under this Pledge Agreement.

*[Signatures follow on next page]*

WHEREFORE, each of the parties hereto has caused a counterpart of this Pledge Agreement to be duly executed and delivered as of the date first above written.

PLEDGOR:

**DSW BROADVIEW, LLC**

By: DSW Management, LLC  
its sole manager

By: \_\_\_\_\_  
Carolyn F. Bohnert  
Sr. Vice President

LENDER:

**SUNFLOWER BANK, NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Acknowledgement of Pledge**

The undersigned, trustee of the City of Wichita, Kansas, the Industrial Revenue Bonds, Series V, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law), (b) the Industrial Revenue Bonds, Series VI, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law), and (c) the Industrial Revenue Bonds, Series VII, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law), hereby acknowledges the pledge of the Bonds by DSW Broadview, LLC to Sunflower Bank, National Association ("Sunflower Bank") and agrees to (1) give Sunflower Bank written notice of any Event of Default under the Lease dated as of October 1, 2008 between the City of Wichita, Kansas, as Issuer, and DSW Broadview, LLC, as tenant, and (2) to recognize Sunflower Bank's right to vote as bondholder upon a default by DSW Broadview, LLC under the Pledge Agreement.

COMMERCE BANK, N.A.  
Kansas City, Kansas

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## CONSENT BY ISSUER

The City of Wichita, Kansas (the "City") hereby acknowledges and consents to the pledge of the Bonds by DSW Broadview, LLC ("Assignor") in favor of Sunflower Bank, National Association ("Assignee"). The City agrees that, upon receipt of a written notice from Assignee that an Event of Default has occurred under the Loan Obligation by Assignor, the City shall recognize Assignee's rights in and to the Bonds, including the right to vote as bondholder, and shall further consent to any assignment of the Bonds by Assignee subject to compliance with the transfer requirements set forth in the Trust Indenture dated as of October 1, 2008 for the Bonds.

Date of execution: \_\_\_\_\_

THE CITY OF WICHITA

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
By \_\_\_\_\_, City Clerk

## COLLATERAL ASSIGNMENT OF LEASE

**THIS COLLATERAL ASSIGNMENT OF LEASE** (this "Assignment") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by **DSW BROADVIEW, LLC**, a Kansas limited liability company (the "Assignor"), to **SUNFLOWER BANK, NATIONAL ASSOCIATION** (the "Assignee").

### WITNESSETH:

**WHEREAS**, the City of Wichita, Kansas (the "Issuer") has issued its Taxable Industrial Revenue Bonds, Series V, 2008; Series VI, 2008; and Series VII, 2008 (DSW Broadview, LLC), dated as of October 1, 2008, in the original principal amount not exceeding \$25,000,000.00 (collectively, the "Bonds");

**WHEREAS**, in connection with the issuance of the Bonds the Issuer has entered into a lease of the Project, as hereinafter described, to Assignor as tenant; and

**WHEREAS**, Assignee has made a loan to Assignor evidenced by a Loan Agreement dated of even date herewith (the "Loan Obligation"), and Assignee has required Assignor to assign to Assignee all of its interest in the Lease (hereinafter defined) as collateral to secure repayment by the Assignor of its obligations thereunder.

**THEREFORE**, Assignor by these presents GRANTS and ASSIGNS unto Assignee, and unto its successors and assigns, as collateral to secure payment to Assignee of all sums due from time to time under the Loan Obligation, that certain leasehold estate, which said leasehold estate embraces and encumbers certain land, buildings, machinery and equipment (the "Project") situated in Sedgwick County, Kansas, and more particularly described as follows:

The leasehold estate created by that certain Lease dated as of October 1, 2008, by and between the City of Wichita, Kansas, as Issuer, and DSW Broadview, LLC, as Tenant, for a basic term ending on November 1, 2048 (the "Term"), and covering the Project described on *Schedule I* attached hereto and incorporated herein by this reference (the "Lease")

and together with and including all right, title and interest of Assignor therein, including without limitation:

- (a) All rents, profits, issues and revenues of said leasehold estate from time to time accruing, whether under licenses, subleases or tenancies now existing or hereafter created; and
- (b) All right, title and interest which Assignor now has or may hereafter acquire in and to the Project including, without limitation, the option to purchase the Project as set forth in *Article XVII* of the Lease.

**TO HAVE AND TO HOLD THE SAME**, together with all privileges, immunities and appurtenances whatsoever in any way belonging, relating or appertaining to the Assignor's leasehold estate in the Project, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now or hereafter acquired by Assignor, subject, however, to the following:

- A. The covenants, agreements, terms and conditions set forth in the Lease;
- B. Rights of lawful occupants or subtenants, and the condition and state of repair of the Project on the date hereof; and
- C. Taxes and assessments, general and special, not delinquent on the date hereof.

1. **Assignment.**

1.1 This Assignment is to secure Assignor's payment and performance of the Loan Obligation and all extensions and renewals thereof. The purpose of this Assignment is to enable Assignee to assign the Lease or exercise the rights as lessee under the Lease if an Event of Default under the Loan Obligation occurs, or to retain Assignor's interest in the Lease.

1.2 Unless and until an Event of Default by Assignor in the performance of any obligations or liability of Assignor to Assignee under the Loan Obligation, Assignor shall have the rights under the Lease and to enjoy the benefits of and enforce the leasehold estate created under the Lease.

2. **Representations, Warranties and Covenants.** Assignor, for itself and its successors and assigns, hereby covenants and agrees to and with Assignee, its successors and assigns, as follows:

2.1. The Lease is in full force and effect and unmodified, and there is no existing default under the provisions of the Lease or in the performance of any terms, covenants, conditions or warranties thereof on the part of Assignor to be observed and performed.

2.2. All rents ((including Basic Rent and Additional Rent (as defined in the Lease) and other charges)) reserved in the Lease have been paid to the extent they were payable prior to the date hereof.

2.3. Assignor will warrant and defend the leasehold estate created under the Lease for the entire remainder of the Term set forth therein against all and every person or persons lawfully claiming, or who may claim the same or any part thereof, subject only to the payment of the rentals in the Lease reserved and to the performance and observance of all the terms, covenants, conditions and warranties thereof.

2.4. Assignor will pay or cause to be paid all Basic Rent, Additional Rent, Impositions (as defined in the Lease), taxes, assessments and other charges mentioned in and made payable by the Lease when and as often as the same shall become due and payable.

2.5. Assignor will at all times promptly and faithfully keep and perform, or cause to be kept and performed, all of the covenants and conditions contained in the Lease by the Tenant (as defined in the Lease) therein to be kept and performed (including the covenants regarding insurance with respect to the Project), and in all respects conform to and comply with the terms and conditions of the Lease, and Assignor further covenants that it will not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, will impair or tend to impair the security of this Assignment or will be grounds for declaring a forfeiture of the Lease.

2.6. Assignor will not modify, amend or in any way alter the terms of the Lease or cancel or surrender the Lease, or waive, excuse, condone or in any way release or discharge the Issuer of and from the obligations, covenants, conditions and agreements by the Issuer to be done and performed without the written consent of Assignee, such consent not to be unreasonably withheld.

2.7. Assignor will request that notice of any default or Event of Default under the Lease be given to Assignee in the same manner and at the same time as is given to Assignor. Any amounts advanced by Assignee and any costs incurred by Assignee in performing on behalf of Assignor any covenant on the part of Assignor to be observed and performed under the Lease, or the curing by Assignee on behalf of Assignor of any default or Event of Default under the Lease shall be repayable by Assignor without demand, with interest thereon, and shall be secured by this Assignment.

### **3. General Provisions.**

3.1. No right, power, or remedy conferred upon or reserved to Assignee by this Assignment is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

3.2. Neither this Assignment nor any terms hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of the charge, waiver, discharge or termination is sought. Any agreement hereafter made by Assignor and Assignee relating to this Assignment shall be superior to the rights of the holder of any intervening lien or encumbrance.

3.3. If the Loan Obligation secured hereby shall be paid according to its terms and provisions, then this Assignment shall terminate and be promptly released by Assignee at the cost of Assignor; but if default is made in the payment of the Loan Obligation, then Assignee, its successors and assigns shall be entitled to (a) immediate possession of the Project pending sale to satisfy said judgment, either directly or through a court-appointed receiver; (b) a decree for the sale of the Assignor's leasehold interest in the Project foreclosing all rights and equities therein of Assignor, its successors, assigns and legal representatives and all persons claiming under it, and Assignor does hereby waive any rights of redemption provided by the laws of Kansas, reserving only the right to any excess proceeds from the rental and/or sale of the Project remaining after



satisfaction of all the obligations hereby secured; and (c) the right to exercise in its own name Assignor's option to purchase the Project pursuant to *Section 17.1* of the Lease.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, Assignor has executed this Collateral Assignment of Lease the day and year first above written.

**DSW BROADVIEW, LLC**

By: DSW Management, LLC  
its sole manager

By: \_\_\_\_\_  
Carolyn F. Bohnert  
Sr. Vice President

**"Assignor"**

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  ) SS:  
COUNTY OF SEDGWICK         )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2011, by Carolyn F. Bohnert, Sr. Vice President of DSW Management, LLC, a Missouri limited liability company, as manager of DSW Broadview, LLC, a Kansas limited liability company, who is personally known to me to be such Sr. Vice President, and who is personally known to me to be the same person who executed, as such Sr. Vice President, the within instrument of behalf of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

[SEAL]

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_  
Typed or Printed Name of Notary Public

\_\_\_\_\_

### CONSENT BY ISSUER

The City of Wichita, Kansas (the "City") hereby acknowledges and consents to the collateral assignment by DSW Broadview, LLC ("Assignor") in favor of Sunflower Bank, National Association ("Assignee"), of Assignor's rights in and to the Lease dated as of October 1, 2008 for the property located at 400 W. Douglas, Wichita, Kansas. The City agrees that, upon receipt of a written notice from Assignee that an Event of Default has occurred under the Loan Obligation by Assignor, the City shall recognize Assignee's rights in and to the Lease as Tenant and shall further consent to any assignment of Assignee's rights under the Lease.

Date of execution: \_\_\_\_\_

THE CITY OF WICHITA

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
By \_\_\_\_\_, City Clerk

### CONSENT BY BONDHOLDERS

Drury Southwest, Inc., as the owner of all of the outstanding Bonds, hereby acknowledges and consents to the collateral assignment by DSW Broadview, LLC ("Assignor") in favor of Sunflower Bank, National Association ("Assignee"), of Assignor's rights in and to the Lease dated as of October 1, 2008 for the property located at 400 W. Douglas, Wichita, Kansas.

Date of execution: \_\_\_\_\_

DRURY SOUTHWEST, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **SCHEDULE I**

### **DESCRIPTION OF PROPERTY**

The following property acquired by the City of Wichita, Kansas (the "Issuer") in connection with the issuance by the Issuer of its Industrial Revenue Bonds, Series V, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series V, 2008 Bonds"); Industrial Revenue Bonds, Series VI, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series VI, 2008 Bonds"); and Industrial Revenue Bonds, Series VII, 2008, (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series VII, 2008 Bonds"); in the aggregate principal amount of not to exceed \$25,000,000 (collectively, the "Bonds"):

- (a) The following described real estate in Sedgwick County, Kansas:

Beginning at the Southeast Corner of Lot 1, Holmes Addition to Wichita, Kansas; thence N 00°00'00" E (Assumed), along the West Right-of-Way of Waco Avenue, a distance of 307.08 feet to the South line of the former Missouri Pacific Railroad property, now owned by Wichita Festivals, Inc.; thence S 89°39'27" W, along the South line of said Railroad property, a distance of 174.49 feet; thence S 67°15'40" W, along said South line, a distance of 167.79 feet to the approximate location of the East Bank of the Arkansas River; thence S 11°26'35" E, along said East Bank, a distance of 223.57 feet; thence S 26°45'11" E continuing along said East Bank, a distance of 105.33 feet to the Southwest Corner of Lot 10, Holmes Addition to Wichita, Kansas; thence N 89°54'22" E, along the South line of said Addition, also being the north line of Douglas Avenue, a distance of 52.00 feet, thence N 73°54'33" E, along said north line, a distance of 43.57 feet; thence N 67°22'33" E, a distance of 155.60 feet to the Point of Beginning.

said real property constituting the "Land" as referred to in the Indenture and the Lease entered into by the Issuer concurrently with the issuance of the Bonds (the "Indenture" and the "Lease"), subject to the encumbrances listed as exceptions in Schedule B of that certain commitment for title insurance no. 1034760 issued by First American Title Insurance Company of Kansas and any restriction or encumbrance impacting or affecting the current or future use of property in connection with the operation of a gambling facility which consists of multi-game casino-style gambling ("Permitted Encumbrances").

- (b) All buildings, building additions, improvements, machinery and equipment now or in the future constructed, located or installed on the Land, all or any portion of the costs of which were paid from the proceeds of the Issuer's Bonds, and which constitute Improvements as defined in the Indenture, together with any substitutions or replacements therefor, the property described in paragraphs (a) and (b) of this Schedule I together constituting the "Project" as referred to in the Indenture and the Lease.

## **COLLATERAL ASSIGNMENT OF MANAGEMENT AGREEMENT**

**THIS COLLATERAL ASSIGNMENT OF MANAGEMENT AGREEMENT** (this "Assignment"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by **DSW BROADVIEW, LLC**, a Kansas limited liability company (the "Assignor") to **SUNFLOWER BANK, NATIONAL ASSOCIATION** (the "Assignee").

### **WITNESSETH:**

**WHEREAS**, the City of Wichita, Kansas (the "City") and Assignor entered into that certain Parking Garage Management Agreement dated as of October 9, 2008, a copy of which is attached hereto as Exhibit A (the "Management Agreement");

**WHEREAS**, Assignee has made a loan to Assignor evidenced by a Loan Agreement dated of even date herewith (the "Loan Obligation"), and Assignee has required Assignor to assign to Assignee all of its interest in the Management Agreement as collateral to secure repayment by the Assignor of its obligations thereunder; and

**WHEREAS**, the ability to manage the Parking Garage (as defined in the Management Agreement) is a valuable asset in the operation of the other assets pledged as collateral for the Loan Obligation.

**THEREFORE**, Assignor by these presents GRANTS and ASSIGNS unto Assignee, and unto its successors and assigns, as collateral to secure payment to Assignee of all sums due from time to time under the Loan Obligation, all of Assignor's right, title and interest in the Management Agreement;

**TO HAVE AND TO HOLD THE SAME**, together with all privileges and rights whatsoever in any way belonging, relating or appertaining to the Assignor's operation and management of the Parking Garage.

#### **1. Assignment.**

1.1 This Assignment is to secure Assignor's payment and performance of the Loan Obligation and all extensions and renewals thereof. The purpose of this Assignment is to enable Assignee to assign the Management Agreement if an Event of Default under the Loan Obligation occurs.

1.2 Unless and until an Event of Default by Assignor in the performance of any obligations or liability of Assignor to Assignee under the Loan Obligation, Assignor shall have the rights under the Management Agreement.

2. **Representations, Warranties and Covenants.** Assignor, for itself and its successors and assigns, hereby covenants and agrees to and with Assignee, its successors and assigns, as follows:

2.1. The Management Agreement is in full force and effect and unmodified, and there is no existing default under the provisions of the Management Agreement or in the performance of any terms, covenants, conditions or warranties thereof on the part of Assignor to be observed and performed.

2.2. Assignor will not modify, amend or in any way alter the terms of the Management Agreement or cancel or surrender the Management Agreement without the prior written consent of Assignee, such consent not to be unreasonably withheld.

2.3. No right, power, or remedy conferred upon or reserved to Assignee by this Assignment is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

3. **General Provisions.**

3.1. Neither this Assignment nor any terms hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of the charge, waiver, discharge or termination is sought. Any agreement hereafter made by Assignor and Assignee relating to this Assignment shall be superior to the rights of the holder of any intervening lien or encumbrance.

3.2. If the Loan Obligation secured hereby shall be paid according to its terms and provisions, then this Assignment shall terminate and be promptly released by Assignee at the cost of Assignor.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, Assignor has executed this Collateral Assignment Management Agreement as of the day and year first above written.

**DSW BROADVIEW, LLC**

By: DSW Management, LLC  
its sole manager

By: \_\_\_\_\_

Carolyn F. Bohnert  
Sr. Vice President

**"Assignor"**

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2011, by Carolyn F. Bohnert, Sr. Vice President of DSW Management, LLC, a Missouri limited liability company, as manager of DSW Broadview, LLC, a Kansas limited liability company, who is personally known to me to be such Sr. Vice President, and who is personally known to me to be the same person who executed, as such Sr. Vice President, the within instrument of behalf of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

[SEAL]

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_  
Typed or Printed Name of Notary Public

## CONSENT

The City of Wichita, Kansas (the "City") hereby acknowledges and consents to the collateral assignment by DSW Broadview, LLC ("Assignor") in favor of Sunflower Bank, National Association ("Assignee"), of Assignor's rights in and to the Parking Garage Management Agreement dated as of October 9, 2008. The City agrees that, upon receipt of a written notice from Assignee that an Event of Default has occurred under the Loan Obligation by Assignor, the City shall recognize Assignee's rights in and to the Parking Garage Management Agreement and shall further consent to Assignee's assignee of the rights and obligations under the Parking Garage Management Agreement.

Date of execution: \_\_\_\_\_

THE CITY OF WICHITA

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
By \_\_\_\_\_, City Clerk



**EXHIBIT A**

**PARKING GARAGE  
MANAGEMENT AGREEMENT**

## **COLLATERAL ASSIGNMENT OF REAL ESTATE OPTION**

**THIS COLLATERAL ASSIGNMENT OF REAL ESTATE OPTION** (this "Assignment"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by **DSW BROADVIEW, LLC**, a Kansas limited liability company (the "Assignor") to **SUNFLOWER BANK, NATIONAL ASSOCIATION** (the "Assignee"),

### **WITNESSETH:**

**WHEREAS**, the City of Wichita, Kansas (the "City") granted Assignor the exclusive right to purchase (the "Option") the approximately 1.13 acre tract of land located at 132 N. Waco, in the City of Wichita, more particularly described on Exhibit A attached hereto and incorporated herein (the "Real Property"), pursuant to that certain Option to Purchase Real Estate Agreement dated as of October 7, 2008, a copy of which is attached hereto as Exhibit B (the "Option Agreement"); and

**WHEREAS**, Assignee has made a loan to Assignor evidenced by a Loan Agreement dated of even date herewith (the "Loan Obligation"), and Assignee has required Assignor to assign to Assignee all of its interest in the Option Agreement, including the Option, as collateral to secure repayment by the Assignor of its obligations thereunder.

**THEREFORE**, Assignor by these presents GRANTS and ASSIGNS unto Assignee, and unto its successors and assigns, as collateral to secure payment to Assignee of all sums due from time to time under the Loan Obligation, all of Assignor's right, title and interest in the Option Agreement and the Option;

**TO HAVE AND TO HOLD THE SAME**, together with all privileges and rights whatsoever in any way belonging, relating or appertaining to the Assignor's option to purchase the Real Property.

#### **1. Assignment.**

1.1 This Assignment is to secure Assignor's payment and performance of the Loan Obligation and all extensions and renewals thereof. The purpose of this Assignment is to enable Assignee to assign or exercise the Option if an Event of Default under the Loan Obligation occurs, or to retain Assignor's interest in the Option.

1.2 Unless and until an Event of Default by Assignor in the performance of any obligations or liability of Assignor to Assignee under the Loan Obligation, Assignor shall have the rights under the Option Agreement.

1.3 Provided no default exists under the Loan Obligation, Assignor shall have the right to exercise the Option and purchase the Real Property provided that Assignee is granted a first priority lien on the Real Property at the time of closing of the purchase of the Real Property.

2. **Representations, Warranties and Covenants.** Assignor, for itself and its successors and assigns, hereby covenants and agrees to and with Assignee, its successors and assigns, as follows:

2.1. The Option Agreement is in full force and effect and unmodified, and there is no existing default under the provisions of the Option Agreement or in the performance of any terms, covenants, conditions or warranties thereof on the part of Assignor to be observed and performed.

2.2. Assignor will not modify, amend or in any way alter the terms of the Option Agreement or cancel or surrender the Option Agreement without the prior written consent of Assignee, such consent not to be unreasonably withheld.

2.3. No right, power, or remedy conferred upon or reserved to Assignee by this Assignment is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

2.4. Neither this Assignment nor any terms hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of the charge, waiver, discharge or termination is sought. Any agreement hereafter made by Assignor and Assignee relating to this Assignment shall be superior to the rights of the holder of any intervening lien or encumbrance.

2.5. If the Loan Obligation secured hereby shall be paid according to its terms and provisions, then this Assignment shall terminate and be promptly released by Assignee at the cost of Assignor.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, Assignor has executed this Collateral Assignment of Real Estate Option as of the day and year first above written.

**DSW BROADVIEW, LLC**

By: DSW Management, LLC  
its sole manager

By: \_\_\_\_\_

Carolyn F. Bohnert  
Senior Vice President

**"Assignor"**

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF SEDGWICK    )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2011, by Carolyn F. Bohnert, Sr. Vice President of DSW Management, LLC, a Missouri limited liability company, as manager of DSW Broadview, LLC, a Kansas limited liability company, who is personally known to me to be such Sr. Vice President, and who is personally known to me to be the same person who executed, as such Sr. Vice President, the within instrument of behalf of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

[SEAL]

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_  
Typed or Printed Name of Notary Public

\_\_\_\_\_

## CONSENT BY CITY

The City of Wichita, Kansas (the "City") hereby acknowledges and consents to the collateral assignment by DSW Broadview, LLC ("Assignor") in favor of Sunflower Bank, National Association ("Assignee"), of Assignor's rights in and to the Option to Purchase Real Estate Agreement dated as of October 7, 2008 for the property located at 132 N. Waco, Wichita, Kansas. The City agrees that, upon receipt of a written notice from Assignee that an Event of Default has occurred under the Loan Obligation by Assignor, the City shall recognize Assignee's rights in and to the Option to Purchase Real Estate Agreement and shall further consent to any assignment of Assignee's rights under the Option to Purchase Real Estate Agreement.

Date of execution: \_\_\_\_\_

THE CITY OF WICHITA

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
By \_\_\_\_\_, City Clerk

## **EXHIBIT A**

### **DESCRIPTION OF REAL PROPERTY**

#### Legal Description of Real Property:

Beginning at the Northwest corner of Engstrom Second Addition to Wichita, Kansas, thence N 00°00'00" E along the West line of said Addition, said line also being the East of Waco Avenue, a distance of 264.30 feet; thence N 45°20'52" E, along the South Right-of-Way line of the former Missouri Pacific Railroad Right-of-Way, a distance of 81.98 feet; thence N 89°46'54" E, a distance of 99.88 feet; thence S 00°38'11" W, a distance of 152.52 feet; thence N 89°53'39" E, a distance of 1.65; thence S 00°00'05" E, along the West line of Civic Center Place, a distance of 169.48 feet to the Northeast corner of said Addition; thence S 89°53'39" W along the North line of said Addition, a distance of 158.15 feet to the Point of Beginning.

**EXHIBIT B**

**OPTION TO PURCHASE**  
**REAL PROPERTY AGREEMENT**

**RESOLUTION NO. 11-171**

**A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CONSENTS TO A COLLATERAL ASSIGNMENT OF LEASE AND BOND PLEDGE AGREEMENT RELATED TO A HOTEL PROJECT FINANCED WITH CITY OF WICHITA, KANSAS INDUSTRIAL REVENUE BONDS, SERIES V, 2008, SERIES VI, 2008 and SERIES VII, 2008 (DSW BROADVIEW, LLC) (TAXABLE UNDER FEDERAL LAW), AS WELL AS ADDITIONAL CONSENTS TO COLLATERAL ASSIGNMENT OF A PARKING GARAGE MANAGEMENT AGREEMENT AND OPTION TO PURCHASE REAL ESTATE PERTAINING TO A GARAGE LOCATED IN THE VICINITY OF SUCH HOTEL PROJECT.**

WHEREAS, the City of Wichita, Kansas (the "City") has previously issued its Industrial Revenue Bonds, Series V, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series V, 2008 Bonds"), its Industrial Revenue Bonds, Series VI, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series VI, 2008 Bonds"), and its Industrial Revenue Bonds, Series VII, 2008 (DSW Broadview, LLC) (Taxable Under Federal Law) (the "Series VII, 2008 Bonds"), all in connection with the financing of the acquisition, improvement, equipment, furnishing, repair, rehabilitation and remodeling of a hotel located at 400 W. Douglas, Wichita, Kansas; and,

WHEREAS, the City holds title interest in facilities financed by the above-referenced bonds and has leased such facilities to DSW Broadview, LLC under a certain Lease Agreement dated as of October 1, 2008 (the "Lease"); and,

WHEREAS, the City and DSW Broadview, LLC are also parties to a certain Option to Purchase Real Estate Agreement dated as of October 7, 2008 and a certain Parking Garage Management Agreement dated as of October 9, 2008, each pertaining to a parking facility located in the vicinity of the above-referenced hotel; and,

WHEREAS, Sunflower Bank, National Association, in connection with a loan to DSW Broadview, LLC has required DSW Broadview, LLC to assign to said bank all of its interest in the Lease, the Series V, VI, and VII, 2008 Bonds (the "Bonds"), the Parking Garage Management Agreement and the Option to Purchase Real Estate Agreement, as collateral to secure repayment of said loan; and,

WHEREAS, in connection with the requirement for such collateral assignments, both Sunflower Bank, National Association and DSW Broadview, LLC, have requested the City to consent to each such assignment.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:**

**Section 1.** Subject to the satisfaction of requirements of the Bond Indenture and bond certificates for the transfer, pledge and hypothecation of the Bonds, the City hereby consents to, and approves the form of, each of the proposed collateral assignments referenced above.

**Section 2.** The Mayor or Vice Mayor of the City is authorized and directed to execute, and City staff (subject to satisfaction of the conditions in the foregoing section) shall deliver, the City's consents to the various forms of assignment, for and on behalf of and as the act and deed of the City, in substantially the forms approved on this date with such corrections or amendments thereto as the Mayor



or Vice Mayor shall approve, which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary to carry out and comply with the intent of this Resolution. The City Clerk or Deputy City Clerk of the City is hereby authorized and directed to attest the said consents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 3.** This Resolution shall take effect immediately upon its adoption by the governing body.

**ADOPTED** by the governing body of the City of Wichita, Kansas, this 19th day of July, 2011.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Multi-Use Path along the Arkansas River from Garvey Park to Planeview Park (District III)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

---

**Recommendations:** Approve the revised project budget.

**Background:** The Capital Improvement Program (CIP) includes a project to construct a multi-use path along the Arkansas River, between Garvey Park and Planeview Park. The City Council approved the project on September 14, 2010. A portion of the project crosses Kansas Turnpike property. In the time since the project was approved, the Turnpike Authority has added additional requirements. In addition, based on recent experience with the longevity of existing multi-use paths, it is proposed that a more durable pavement section be constructed.

**Analysis:** Approximately 4.5 miles of 10 feet wide multi-use path will be constructed between Garvey Park and Planeview Park, creating a loop connection between existing paths along the Arkansas River and Gypsum Creek.

**Financial Considerations:** The existing project budget is \$1,700,000, with \$700,000 paid by the City and \$1,000,000 paid by Federal Grants administered by Kansas Department of Transportation. The proposed revised budget is \$2,200,000, with \$1,200,000 paid by the City and \$1,000,000 paid by Federal Grants. Funding for the budget increase is included in the CIP as Bike Enhancement projects. The funding source for the City share is General Obligation bonds.

**Goal Impact:** This project addresses the Efficient Infrastructure and Quality of Life goals by extending a multi-use path to connect public parks, making them more accessible to the pedestrian public.

**Legal Considerations:** The amending resolution has been approved as to form by the Law Department.

**Recommendation/Actions:** It is recommended that the City Council approve the revised project budget, adopt the amending resolution and authorize the signing of State/Federal agreements as required.

**Attachments:** Map, CIP sheet and amending resolution.

**CAPITAL IMPROVEMENT  
PROJECT AUTHORIZATION  
CITY OF WICHITA**

USK

To Initiate Project

To Revise Project

☒

1. Prepare in triplicate

2. Send original & 2 copies to budget

3. City Manager to sign all copies.

4. File original w/ initiating resolution in City Clerk.

5. Return 2nd copy to initiating department

6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location	
Public Works & Utilities	Eng. & Arch	6/28/2011	Multi-Use path from Quarry Park to Flamingo Park	
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date	
		2011		
9. Estimated Start Date (As Required)	10. Estimated Completion Date (As Required)	11. Project Revised		
12. Project Cost Estimate			12A.	
ITEM	GO	KDOT	KDOT	TOTAL
Right of Way & Design				
Bridge & Culverts				
Paving, grading & const.				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Multi-Use Path	\$1,200,000		\$1,000,000	\$2,200,000
<b>Totals</b>	<b>\$1,200,000</b>		<b>\$1,000,000</b>	<b>\$2,200,000</b>
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the budget revision and amending resolution				
Division Head	Department Head		Budget Officer	City Manager
			Date	Date

	Yes	No
Platting Required	_____	_____
Lot Split	_____	_____
Petition	_____	_____
Ordered by WCC	X	_____

Remarks:

472-84942

First Published in the Wichita Eagle on July 22, 2011

RESOLUTION NO. 11-172

A RESOLUTION AMENDING RESOLUTION NO. 10-238 AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO CONSTRUCT A MULTI-USE PATH ALONG THE ARKANSAS RIVER BETWEEN GARVEY PARK AND PLANEVIEW PARK (472-84932).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1. SECTION 2 of Resolution No. 10-238 is hereby amended to read as follows:

“SECTION 2. The cost of the above described improvements is estimated to be Two Million Two Hundred Thousand Dollars (\$2,200,000) exclusive of the cost of interest on borrowed money. To the extent the cost of such improvements is not paid by Federal and State Grants, the City of Wichita, Kansas, is authorized to issue general obligation bonds to pay such costs under the authority of Wichita Charter Ordinance No. 156 up to a maximum amount of \$2,200,000, exclusive of the cost of interest on borrowed money.”

SECTION 2. The original SECTION 2 of Resolution No. 10-238 is hereby rescinded.

SECTION 3. That the City Clerk shall make proper notification of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 19<sup>th</sup> day of July, 2011.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

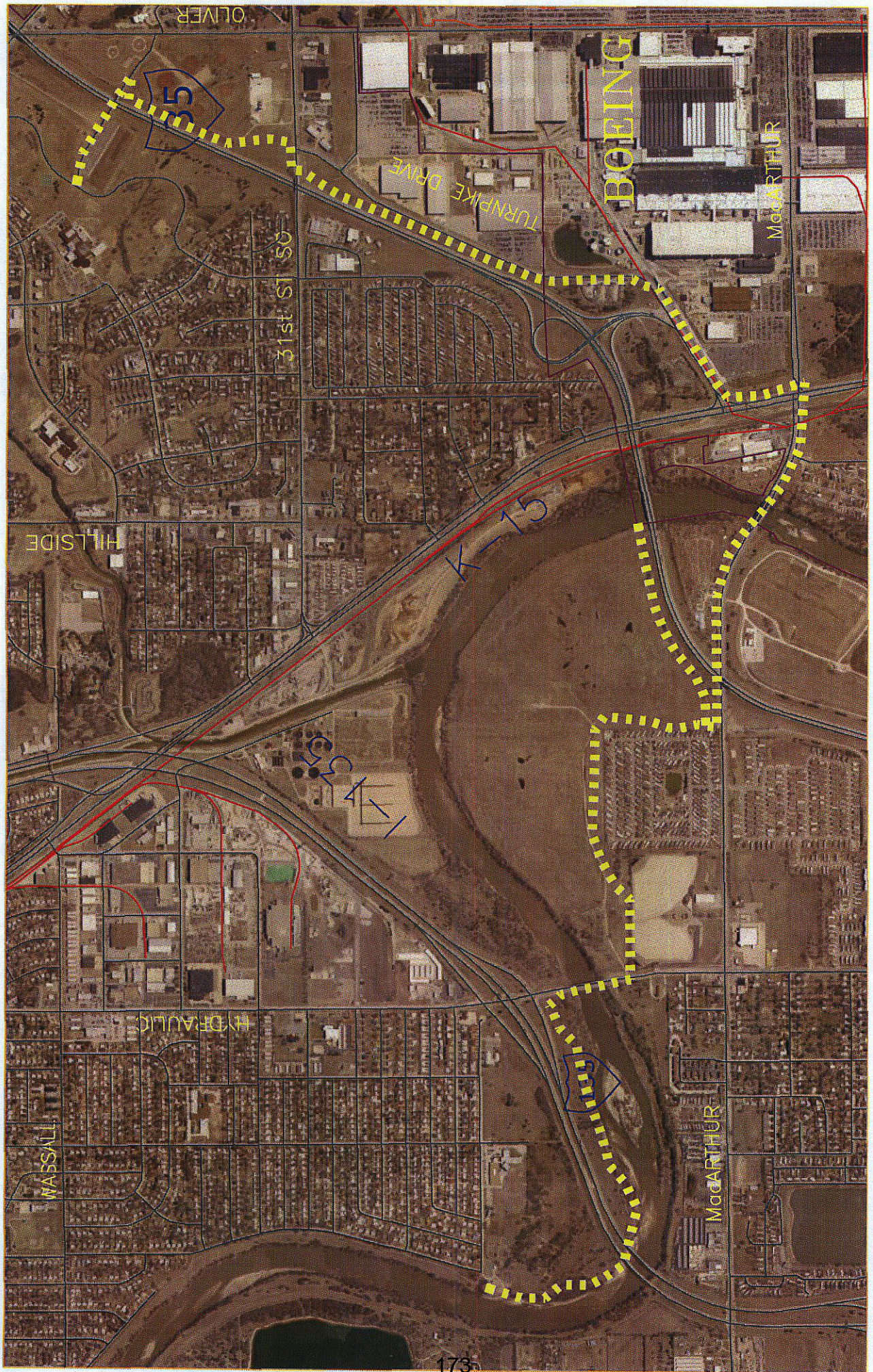
(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW







**City of Wichita  
City Council Meeting  
July 19, 2011**

**TO:** Mayor and City Council

**SUBJECT:** Prisoner Re-entry Program Memorandum of Agreement

**INITIATED BY:** Wichita Police Department

**AGENDA:** Consent

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**Recommendation:** Approve the Memorandum of Agreement between the Wichita Police Department and the Kansas Department of Corrections (KDOC).

**Background:** On September 15, 2009, the City Council approved a one-year Memorandum of Agreement (MOA) with the Kansas Department of Corrections to fund a Wichita Police Officer position to provide support for the Prisoner Re-entry Program. The KDOC paid for the majority of one Wichita Police Officer's salary and benefits.

The KDOC has agreed to enter into a new one-year MOA with the Wichita Police Department for 2012 (July 1, 2011 through June 30, 2012), providing \$71,250 for one Police Officer. Projected one-year costs are approximately \$89,200, a difference of \$17,950 which will be funded through the Police Department's operating budget.

**Analysis:** The Prisoner Re-entry Program provides supervision and support services for up to 150 offenders returning to Wichita from State correctional facilities. The Wichita Police Officer funded through this agreement will work with offenders to facilitate their reintegration into the community. Since the program's inception in 2006, there have been 365 people participating at varying degrees. Of these participants, 241 were active participants who had continuous reentry services until the time of their release. Out of these active participants, 169 (70%) had not returned to prison for probation or new violations. In 2005, the rate was 50 percent within the first six months of release.

**Financial Considerations:** The KDOC will reimburse the City of Wichita up to \$71,250 over the one year period. There will be a net General Fund cost of approximately \$17,950.

**Goal Impact:** The Memorandum of Agreement will contribute to the Safe and Secure Community goal.

**Legal Considerations:** The Law Department has reviewed and approved the MOA as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the MOA and authorize the appropriate signatures.

**Attachments:** Memorandum of Agreement.



**DEPARTMENT OF LAW  
INTEROFFICE MEMORANDUM**

**TO:** Norman Williams, Chief of Police  
**FROM:** Sharon L. Dickgrafe, Chief Deputy City Attorney  
**SUBJECT:** Memorandum of Agreement between City of Wichita and Kansas Department of Corrections – Offender Risk Reduction and Reentry Plan  
**DATE:** July 5, 2011

The attached, above-referenced agreement has been reviewed and approved as to form.

*for Sharon L. Dickgrafe*  
Sharon L. Dickgrafe  
Chief Deputy City Attorney

SLD:cdh

Attachment

*needs greensheet for council agenda - consent*

## MEMORANDUM OF AGREEMENT

This agreement is made by and between the Kansas Department of Corrections (KDOC) and the City of Wichita, Kansas (Wichita) for the delivery of services by Wichita to offenders preparing for release from prison and returning to Sedgwick County, as detailed in this agreement, related to police services provided to the offender reintegration process.

WHEREAS, the KDOC is engaged in implementing the Kansas Offender Risk Reduction and Reentry Plan (KOR3P), which includes strategies to address the sharing of information and sustained working partnerships with law enforcement related to returning offenders, see <http://www.doc.ks.gov/reentry/goals-of-kor3p>;

WHEREAS, the KDOC's risk reduction and reentry initiatives are supported by partnerships with various community organizations and agencies, including law enforcement;

WHEREAS, between 1150-1200 offenders are released from Kansas prisons to post-release supervision in Sedgwick County every year; and additional offenders release without supervision to the Wichita/Sedgwick County community;

WHEREAS community and neighborhood safety is an issue that impacts and is impacted by returning offenders, with ongoing contact by law enforcement with offenders released from prison, or their families, for a myriad of reasons; and often law enforcement and corrections having information relevant and necessary to each others' daily work and business;

WHEREAS, evidence-based practices suggest that information-sharing and close working sustained partnerships between corrections and law enforcement contributes to effective reintegration and risk reduction strategies; and increase the potential for safe reintegration of offenders into the community;

WHEREAS, the Wichita Police Department (WPD) provides police and law enforcement services in Wichita;

NOW, THEREFORE, the parties to this agreement hereby agree to the following:

1. KDOC will pay Wichita a flat sum of no more than \$71,250 for a period of 12 months, from July 1, 2011 through June 30, 2012, to be paid in increments of \$5,937.50 per month no later than the last day of each month. Wichita shall submit an invoice to KDOC no later than the 20th day of each month.



- a. In the event the position discussed below becomes vacant during the period of this agreement, Wichita shall provide coverage for the vacancy making the services available without a break in service, through a back up person, to the extent possible.
  - b. If services are not provided for any period of one day or more, Wichita shall deduct \$274 per day where coverage is not provided.
2. For the funding amounts described herein, Wichita shall provide the following:
  - a. Recruit, screen and select a qualified person to serve as an employee of the WPD to perform the duties of a Wichita Police Department Reentry Liaison (WPD Reentry Liaison) set out in the attached Job Description, **Attachment A**;
  - b. Assign this person full time to carry out the duties in the attached Job Description, Attachment A, and to provide reports regarding the work done as set out at **Attachment B**, which supplements/augments the position description;
  - c. Consult with KDOC before any final hiring decision is made, including providing necessary information for a background check to ensure the person is eligible to enter correctional facilities;
  - d. Provide training to this person, and coordinate with this person to receive necessary KDOC training for this person to be eligible to enter and work in correctional facilities; and,
  - e. Allow the WPD Reentry Liaison to be located in the parole/reentry office of the KDOC in Wichita, for immediate access to staff for daily work.
3. The WPD Reentry Liaison hired by the WPD will:
  - a. Work with KDOC staff to assist in monitoring activities of selected offenders who are reintegrating to Wichita;
  - b. Meet with selected high risk offenders preparing for release from Kansas correctional facilities who are scheduled to return to Sedgwick County, working with reentry and unit team staff to coordinate preparing for and participating in these meetings;

- c. Obtain and provide information about driver's license status and pending wants, warrants or detainers, so the offender and his/her case manager (reentry, unit team, parole) can work with the offender to address and resolve these matters; and participate in the discussion and activities necessary to support resolution of these matters as appropriate;
  - d. Assist in monitoring offenders for at least six (6) months after release into the community as necessary, working with reentry and parole staff to coordinate information-sharing and making recommendations about responding to behavior as necessary and appropriate;
  - e. Provide training and information to WPD staff regarding risk reduction and reentry;
  - f. Facilitate information-sharing between WPD and KDOC regarding offenders in the community;
  - g. Staff cases with high risk/need caseload carriers to address reintegration risk and needs; to provide ideas and feedback about how to stabilize the offender; to make decisions about responding to behavior; and support progress and success by the offenders as they return to the community;
  - h. Participate in ongoing planning and development of partnerships between KDOC and WPD for information-sharing, staffing cases together, and delivering law enforcement services in the communities consistent with risk reduction and reentry practices;
  - i. Perform the duties set out in the Position Description at Attachment A;
  - j. Prepare the reports of activity and information set out at Attachment B;
  - k. Perform other duties as assigned consistent with this position.
4. Wichita agrees to partner with KDOC in seeking alternative funding to sustain the delivery of these services after the period covered by this agreement. This will include collaborating with KDOC staff and participating in any grant application, or other requests for funding.
  5. Wichita agrees to participate in data collection and evaluation with the KDOC as requested.
  6. Wichita shall be responsible for all administrative and other costs associated with delivering the services outlined in this agreement, including salary, benefits, recruitment, hiring, supervision,

equipment, long distance costs, training, travel, professional licensing, mileage, per diem, or any other costs incurred in delivering the services herein, from within the funds paid by KDOC. KDOC shall not be responsible for any other payment for the services beyond the \$71,250 indicated in this agreement.

- i. KDOC purchased a laptop computer work station for use by the WPD Reentry Liaison. The amount of that purchase (\$1,947.17) was deducted from the Wichita invoice following the purchase. Thus the laptop computer work station used by the WPD Reentry Liaison became and is the property of the City of Wichita. The laptop work station will be maintained by KDOC Information Technology staff and will be assigned only to the Wichita Police Department Reentry Liaison for the duration of this agreement. KDOC will transfer to the City of Wichita the laptop hardware warranty, and warranty for software originally supplied by the manufacturer that was included in the terms of the original purchase of the laptop computer by KDOC, all pursuant to an Addendum to the first Memorandum of Agreement between KDOC and Wichita for this position, which addendum was signed by KDOC on 6/4/08 and by the City of Wichita on 7/7/08.

7. The contact persons for informal resolution of questions about this agreement are:

- a. Wichita: Deputy Chief Terri Moses  
Wichita Police Department  
455 N. Main  
Wichita, KS 67202  
[tmoses@wichita.gov](mailto:tmoses@wichita.gov)
- b. KDOC: Margie Phelps, Reentry Director  
Kansas Department of Corrections  
900 S.W. Jackson, 4<sup>th</sup> Floor  
Topeka, KS 66612-1284  
785.368.8917  
[margiep@doc.ks.gov](mailto:margiep@doc.ks.gov)

8. All formal contract notifications and communications, whether notices of termination or for any other purpose under this agreement, may be accomplished by use of registered mail, return receipt

requested, commercial courier service, or personal delivery directed to the following designated individuals:

- a. Wichita: Robert Layton, City Manager  
City of Wichita, Kansas  
455 N. Main Street, 13<sup>th</sup> floor  
Wichita, KS 67202

With a copy to:

Gary Rebenstorf, City Attorney  
City of Wichita, Kansas  
455 N. Main Street  
Wichita, KS 67202

- b. KDOC: Secretary of Corrections  
Kansas Department of Corrections  
900 S.W. Jackson, 4<sup>th</sup> Floor  
Topeka, Kansas 66612-1284

With a copy to:

Chief Legal Counsel  
At same address as Secretary of Corrections

- 9. The term of this agreement shall commence on July 1, 2011, and terminate on June 30, 2012. This agreement may be terminated by either party upon a minimum of thirty (30) days written notice of such termination provided to the other party. Notice of termination shall be considered effective upon the date of receipt of notice by the other party. Wichita shall be paid for all services rendered up to and including the termination date. This agreement may be renewed by written addendum for succeeding one-year terms, subject to availability of necessary funding and mutual agreement of the parties. This agreement is subject to ongoing funding from the Kansas legislature to the KDOC to cover the costs of this position.
- 10. This agreement may only be amended by written addendum executed by KDOC and Wichita.
- 11. Nothing herein is intended to benefit any third party or to create in or confer upon any third party any rights arising from or in connection with this agreement.
- 12. Neither party to this agreement shall prohibit or prevent the Legislative Division of Post Audit from having access pursuant to K.S.A. 46-1101, et seq. to any records, documents or other

information -- confidential or otherwise -- regarding or relating to the execution and/or performance of this agreement.

13. The parties enter into the agreement in good faith and in the belief that this agreement, and actions pursuant to this agreement, are in accordance with appropriate State or Federal laws and regulations.
14. The provisions found in the Contractual Provisions Attachment (Form DA-146a), which is found at **Attachment C** are hereby incorporated in this agreement and made part hereof. Should any of the provisions of this agreement conflict with any provisions of the Contractual Provisions Attachment, the provisions set forth in the Contractual Provision Attachment shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first written above:

STATE OF KANSAS

CITY OF WICHITA, KANSAS.

DEPARTMENT OF CORRECTIONS

By: \_\_\_\_\_

By: \_\_\_\_\_

Ray Roberts, Secretary

Mayor

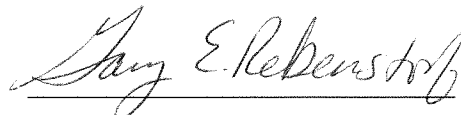
Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM;



Gary E. Rebenstorf, Director of Law



## POLICE OFFICER

### DISTINGUISHING FEATURES OF WORK

This is general police work in the protection of life and/or property through enforcement of laws. Work performed involves an element of personal danger. Employees work under general supervision following a period of field training and may be assigned to work on patrol, at headquarters, on special assignments, or as plainclothes investigators. Employees are accountable to and evaluated by field commanders who review work methods and results through observation, reports, inspection, and discussion.

### EXAMPLES OF WORK PERFORMED

- Patrols areas of the city on foot, horseback, or in a vehicle to preserve law and order, to prevent and discover the commission of crime, and to enforce motor vehicle and parking regulations and correct traffic hazards.
- Answers calls and complaints received by radio, telephone, or in person involving emergency, disorder, and crime.
- Interviews persons with complaints or inquiries, takes statements and tends to proper disposition of the information or directs them to proper authorities.
- Conducts preliminary investigations, gathers evidence and locates witnesses.
- Makes arrests and/or takes prisoners to jail.
- Appears in court to present evidence and/or testify as required.
- Conducts specialized investigations and raids.
- Conducts police-related community awareness and public relations work.
- May administer basic first aid.
- The examples of work performed are not intended to be all-inclusive. The City of Wichita reserves the right to assign additional duties and as needed.

### REQUIREMENTS OF WORK

- Successful completion of a Police Academy Program that meets the guidelines of the Kansas Law Enforcement Training Center.
- Working knowledge of the geography of the City and the location of important buildings.
- Some knowledge of first-aid methods.
- Ability to react quickly and calmly in emergencies; to record details about names, faces, and incidents quickly, clearly, and accurately.
- Ability to accurately and effectively discharge a rifle, shotgun, and handgun with both left and right hands.
- Ability to subdue a violent and/or uncooperative person by methods requiring physical force.
- Ability to drag or carry an average adult person, about 160 pounds, a distance of fifteen to twenty feet, away from danger.
- Ability to communicate clearly and effectively, both orally and in writing.
- Ability to develop and maintain effective working relationships with associates, other employees, representatives of other organizations, and the public.
- Ability to operate an automobile.
- Possession of and ability to maintain a valid Kansas driver's license.
- An employee shall not pose a direct threat to the health or safety of other individuals in the workplace.

### REQUIRED EXPERIENCE AND TRAINING

Must be at least 21 years of age and have successfully completed the Wichita Law Enforcement Training Center's courses. Must possess a valid Kansas driver's license. Offers of employment will be made contingent upon passing a pre-employment physical, which will include drug screening, and upon satisfactory evaluation of the results of a police records check. Any equivalent combination of experience and training.

Attachment B

- 1.) Offender Reentry Contact Database contained in the WPD Intranet Site
- 2.) Offender Reentry Community Participant Spreadsheet contained in the WPD Intranet Site
- 3.) Reentry Participant Release Notifications
- 4.) Reentry Participant Obligation Summaries
- 5.) WPD Monthly Activity Reports
- 6.) Daily Officer's Daily Activity Reports
- 7.) Any other documents prepared at the request of WPD, Sedgwick County Reentry, or Kansas Parole Staff.

**CONTRACTUAL PROVISIONS ATTACHMENT**

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 04-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 1<sup>st</sup> day of July, 2011.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges—hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
Contractor agrees to comply with all applicable state and federal anti-discrimination laws.  
The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."



**CITY OF WICHITA**  
**City Council Meeting**  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Approval of Offers for the Improvement of the Bridge on Broadway near 34<sup>th</sup> Street South (District III)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the offers.

**Background:** On February 15, 2011, the City Council approved the east alignment of the proposed Broadway Bridge Project at 34<sup>th</sup> Street South. The project calls for the realignment and reconstruction of the Broadway Bridge over the Union Pacific rail corridor. The project will require the acquisition of all or part of approximately twelve parcels. The properties consist of a mix of residential and commercial uses.

**Analysis:** As required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, all tracts required for the project have been valued and just compensation established. Based on these valuations, the fair market value of the tracts to be acquired totals \$921,900. This amount will be offered to the various property owners. Any settlements in excess of the approved amounts will be presented to the City Council for final approval.

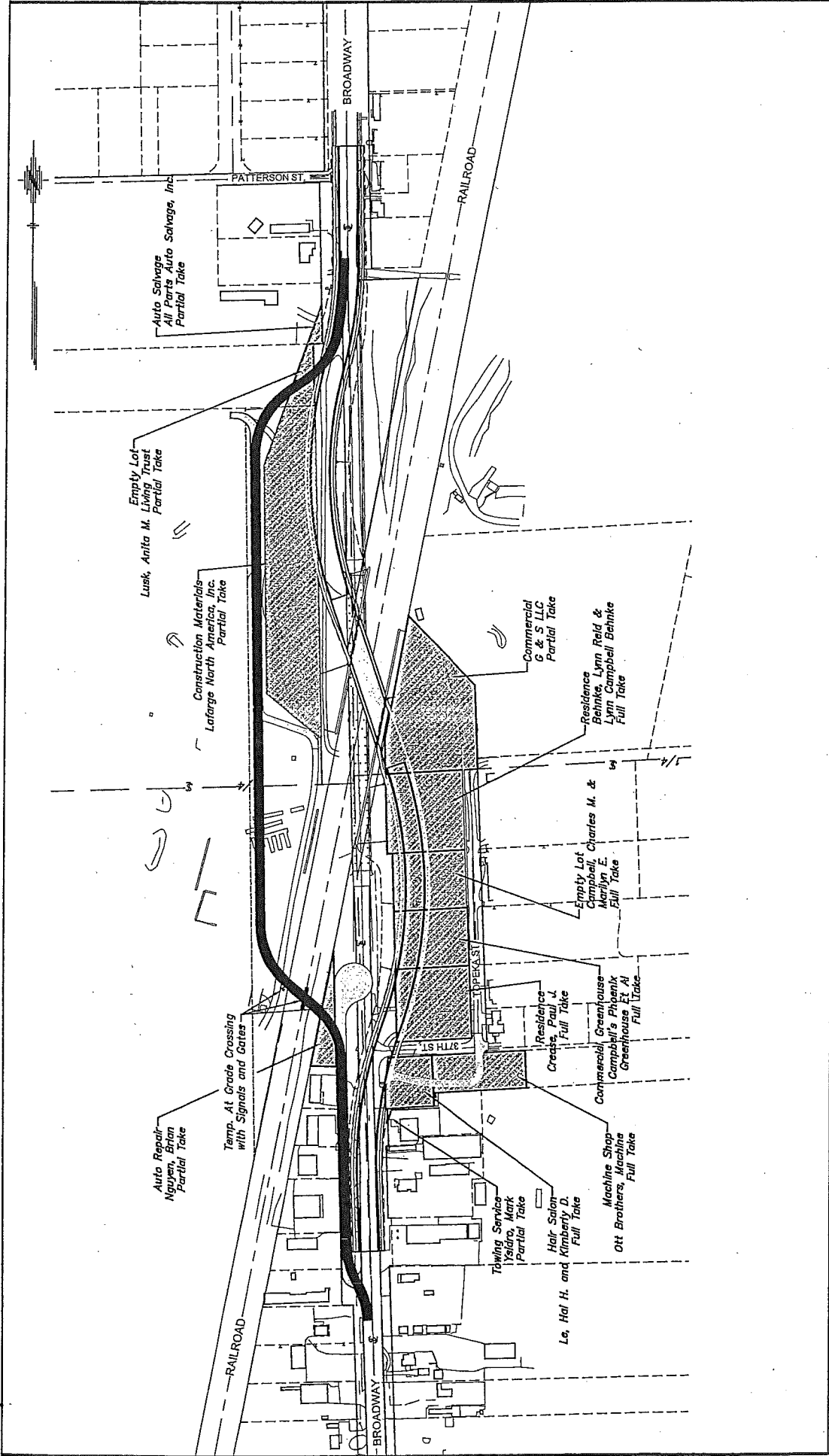
**Financial Considerations:** The funding source for the project is General Obligation Bonds. A budget of \$1,400,000 is requested. This includes \$921,100 for the acquisitions, \$450,000 for relocation and \$28,900 for title work, closing costs and other administrative fees.

**Goal Impact:** The acquisition of these parcels is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

**Legal Considerations:** All agreements are subject to review and approval as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council 1) Approve the offers and; 2) Authorize the necessary signatures.

**Attachments:** Aerial map.



**MEKEC**  
ENGINEERING  
CONSULTANTS, INC.  
411 N. WOOD ROAD  
SILVERDALE, PA 19154

# **EAST ALIGNMENT 'A'** **With At-Grade Detour**

**ESTIMATED BROADWAY CLOSURE TIME:**  
**2-3 MONTHS**

**ESTIMATED COST:**

CONSTRUCTION:	\$11,100,000
RIGHT-OF-WAY:	\$1,200,000
	<u>\$12,300,000</u>

City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Affordable Airfares Funding Agreement with Sedgwick County

**INITIATED BY:** Urban Development Office

**AGENDA:** Consent Agenda

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**Recommendation:** Approve the contract.

**Background:** Since 2002, the City of Wichita and later Sedgwick County entered into annual revenue guarantee agreements with AirTran Airways, and in 2007 with Frontier Airlines. This affordable airfares program has resulted in an estimated \$500 million in cost savings to businesses and individuals flying in and out of Wichita Mid-Continent Airport.

Starting in 2006, the State of Kansas has provided \$5,000,000 per year in state funding for five years to support affordable airfares in Kansas. The annual state grants are made through the Regional Area Economic Partnership (REAP) for programs that provide more flight options, more competition for air travel, and affordable air fares for Kansas. The state funding is subject to annual appropriation and requires a 25% local match.

The first five years of state funding have been awarded to Sedgwick County to defray most of the cost of the AirTran and Frontier revenue guarantees. In its 2011 session, the Kansas Legislature again appropriated \$5,000,000 for affordable airfares in Kansas and REAP has awarded \$4,750,000 of that to Sedgwick County. As in past years, the local match will be provided under the terms of the attached Transportation Services Agreement between the City and Sedgwick County.

**Analysis:** On July 13, 2011, the Sedgwick County Board of County Commissioners approved a new contract with AirTran Airways for discount air service to Atlanta and eastern U.S. destinations, with a revenue guarantee capped at \$6,500,000 for the period from July 1, 2010 through June 30, 2011. The revenue guarantee is based on the gross revenue needed to cover the standard cost of operating Boeing 717 jet service between Wichita and Atlanta, plus a 5% profit margin. Under the terms of the contract, Sedgwick County is obligated to pay AirTran the amount (if any) by which actual passenger revenue attributed to this flight segment falls short of the monthly revenue guarantee, up to an annual maximum of \$6,500,000. In any month in which AirTran reports revenue in excess of costs, the excess revenue is carried forward to offset County revenue guarantees in future months.

By law, a local match of \$1,623,375 is required to secure the state funding awarded by REAP. However, to cover the AirTran contract obligations for the twelve months ending June 30, 2012, \$1,750,000 in local funding commitment is needed, in addition to the \$4,750,000 in state funding. The proposed contract between the City and County will provide up to \$875,000 of City funding to partially offset the County's \$1,750,000 obligation.

**Financial Considerations:** The total cost of providing revenue guaranty payments under the AirTran contract is \$6,500,000. Funding sources include the State of Kansas for \$4,750,000 and the City and Sedgwick County for \$875,000 each. Funding for the City's share of costs under the 2011-2012 transportation service agreement with Sedgwick County will come from funds appropriated for that purpose in the Economic Development Fund.

**Goal Impact:** Economic Vitality and Affordable Living. Affordable air service is one of the most critical cost factors impacting the decision of businesses to move to Wichita or to remain in Wichita. It also has a strong impact on the ability to attract and retain workers, and to provide a high quality of life to families in the region.

**Legal Considerations:** The attached funding agreement between the City and County has been approved as to form by the Department of Law.

**Recommendations/Actions:** It is recommended that the City Council approve the contract and authorize the necessary signatures, and authorize any necessary budget adjustments.

**Attachments:** Transportation Service Agreement

**CITY OF WICHITA**  
**City Council Meeting**  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Acquisition by Eminent Domain of Tracts Required for the Pawnee and Broadway Intersection Improvement Project (District III)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real properties.

**Background:** On January 4, 2011, the City Council approved the design concept and proposed project to improve the intersection of Pawnee and Broadway. The project will require the acquisition of parts of five tracts. The intersection will be reconstructed to replace the pavement, construct left turn lanes in all directions and upgrade the traffic signals.

**Analysis:** To date, three tracts have been acquired. Due to the timing of the project, it is necessary to initiate eminent domain at this time. Staff will continue to negotiate with the owners as well continue to work to clear title issues. As agreements are reached or title is cleared, tracts will be deleted from the eminent domain action.

**Financial Considerations:** The cost of these acquisitions will be paid for with General Obligation Bonds.

**Goal Impact:** The acquisition of these parcels is necessary to ensure Efficient Infrastructure in a developed part of the City.

**Legal Considerations:** The City is authorized by law to commence eminent domain proceedings to acquire these properties.

**Recommendation/Action:** Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property; and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisition.

**Attachments:** Tract list, condemnation resolution and condemnation ordinance.

RESOLUTION NO. 11-173

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH THE PLANNED IMPROVEMENT OF THE INTERSECTION OF PAWNEE STREET AND BROADWAY AVENUE IMPROVEMENT PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS;

WHEREAS, the governing body has previously authorized the study and the preliminary design of certain improvements for public right-of-way at the intersection of Pawnee Street and Broadway Avenue in the City of Wichita; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with improvement of the intersection of Pawnee Street and Broadway Avenue.

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

SECTION 3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 19th day of July, 2011.

**CITY OF WICHITA:**

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Carl Brewer, Mayor

**ATTEST:**

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Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

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Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 49-043

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE IMPROVEMENT OF THE INTERSECTION OF PAWNEE STREET AND BROADWAY AVENUE IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the improvement of the intersection of Pawnee Street and Broadway Avenue in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

That part of Lots 2 and 4 on Lawrence Avenue, now Broadway Avenue, Hilbish and Hettinger's Addition to Wichita, Kansas, described as follows: Beginning at the northwest corner of said Lot 2, said northwest corner also being the northwest corner of that part of said Lot 2 described and conveyed in General Warranty Deed, (Deed Book 1442, Page 391), Quit Claim Deed, (Deed Book 1443, Page 120), and Quit Claim Deed, (Deed Book 1443, Page 122), (all hereafter referred to as "Deeds"); thence southeasterly along the westerly portion of the north line of said "Deeds", 23.73 feet to a deflection corner in the north line of said "Deeds", said deflection corner being described as 12.00 feet north and 20.00 feet east of the southwest corner of said Lot 2; thence easterly along the easterly portion of the north line of said "Deeds", (the easterly portion of the north line of said "Deeds" being described as 12.00 feet north of and parallel with the south line of said Lot 2), 10.00 feet; thence northwesterly, 42.18 feet to a point on the west line of said Lot 4, said point being 17.00 feet north of the point of beginning; thence southerly along the west line of said Lot 4, 17.00 feet to the point of beginning and

That part of the Southeast Quarter of Section 32, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the southeast corner of said Southeast Quarter; thence northerly along the east line of said Southeast Quarter, 40.00 feet; thence westerly parallel with the south line of said Southeast Quarter, 50.00 feet to the intersection of the west right-of-way line of Broadway Ave. with the north right-of-way line of Pawnee Ave., as condemned in District Court Case No. A-7533, and

for a point of beginning; thence westerly along the north right-of-way line of said Pawnee Ave., (as condemned in District Court Case No. A-7533), 30.00 feet; thence northeasterly, 42.70 feet to a point on the west right-of-way line of said Broadway Ave., (as condemned in District Court Case No. A-7533), said point also being 30.00 feet north of the point of beginning; thence southerly along the west right-of-way line of said Broadway Ave., (as condemned in District Court Case No. A-7533), 30.00 feet to the point of beginning.

Temporary construction easements for driveway, drainage and road construction in and to the following-described tracts, to-wit:

That part of Lots 6 and 8, on Lawrence Avenue, now Broadway Avenue, Hilbish and Hettinger's Addition to Wichita, Kansas, described as follows: Commencing at the southwest corner of said Lot 6; thence northerly along the west line of said Lot 6, 4.23 feet for a point of beginning; thence continuing northerly along the west line of said Lots 6 and 8, 45.77 feet to the northwest corner of said Lot 8; thence easterly along the north line of said Lot 8, 10.00 feet; thence southerly parallel with the west line of said Lots 8 and 6, 35.88 feet; thence southwesterly with a deflection angle to the right of  $44^{\circ}58'10''$ , 14.15 feet to the point of beginning and

That part of Lots 2 and 4 on Lawrence Avenue, now Broadway Avenue, Hilbish and Hettinger's Addition to Wichita, Kansas, described as follows: Commencing at the northwest corner of said Lot 2, said northwest corner also being the northwest corner of that part of said Lot 2 described and conveyed in General Warranty Deed, (Deed Book 1442, Page 391), Quit Claim Deed, (Deed Book 1443, Page 120), and Quit Claim Deed, (Deed Book 1443, Page 122), (all hereafter referred to as "Deeds"); thence southeasterly along the westerly portion of the north line of said "Deeds", 23.73 feet to a deflection corner in the north line of said "Deeds", said deflection corner being described as 12.00 feet north and 20.00 feet east of the southwest corner of said Lot 2; thence easterly along the easterly portion of the north line of said "Deeds", (the easterly portion of the north line of said "Deeds" being described as 12.00 feet north of and parallel with the south line of said Lot 2) 48.26 feet for a point of beginning; thence continuing easterly along the easterly portion of the north line of said "Deeds", 59.98 feet; thence northwesterly with a deflection angle to the left of  $134^{\circ}58'00''$ , 28.27 feet to a point 20.00 feet normally distant north of the easterly portion of the north line of said "Deeds"; thence westerly parallel with the easterly portion of the north line of said "Deeds", 20.00 feet; thence southwesterly with a deflection angle to the left of  $45^{\circ}00'00''$ , 28.28 feet to the point of beginning and

That part of Lots 18, 20, and 22 on Lawrence Avenue, now Broadway Avenue, Hilbish and Hettinger's Addition to Wichita, Kansas described as follows: Commencing at the southwest corner of said Lot 18; thence northerly along the west line of said Lot 18, 24.33 feet for a point of beginning; thence continuing northerly along the west line of said Lots 18, 20, and 22, 50.67 feet to the northwest corner of said Lot 22; thence easterly along the north line of said Lot 22, 0.33 feet; thence southeasterly with a deflection angle to the right of  $45^{\circ}39'12''$ , 13.67 feet to a point 10.00 feet normally distant east of the west line of said Lot 22; thence southerly parallel with the west line of said Lots 22 and 20, 31.01 feet; thence southwesterly with a deflection angle to the right of  $45^{\circ}00'00''$ , 14.14 feet to the point of beginning and

That part of Lots 10, 12, and 14, on Lawrence Avenue, now Broadway Avenue, Hilbish and Hettinger's Addition to Wichita, Kansas described as follows: Beginning at the southwest corner of said Lot 10; thence northerly along the west line of said Lots 10, 12, and 14, 53.32 feet; thence southeasterly with a deflection angle to the right of  $134^{\circ}58'10''$ , 14.13 feet to a point 10.00 feet normally distant east of the west line of said Lot 12; thence southerly parallel with the west line of said Lots 12 and 10, 43.21 feet to a point on the south line of said Lot 10; thence westerly along the south line of said Lot 10, 10.00 feet to the point of beginning and

That part of the Southeast Quarter of Section 32, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the



southeast corner of said Southeast Quarter; thence westerly along the south line of said Southeast Quarter, 131.83 feet; thence northerly perpendicular to the south line of said Southeast Quarter, 40.00 feet to a point on the north right-of-way line of Pawnee Ave., and for a point of beginning; thence westerly along said north right-of-way line, 57.66 feet to the southeast corner of the alley as dedicated east of and abutting the east line of Block 3, Sunset Gardens Addition to Wichita, Kansas; thence northerly along the east line of said alley, 2.24 feet; thence northeasterly with a deflection angle to the right of  $43^{\circ}39'01''$ , 17.84 feet to a point 15.00 feet normally distant north of said north right-of-way line; thence easterly parallel with said north right-of-way line, 30.09 feet; thence southeasterly with a deflection angle to the right of  $44^{\circ}44'55''$ , 21.21 feet to the point of beginning and

That part of the Southeast Quarter of Section 32, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the southeast corner of said Southeast Quarter; thence northerly along the east line of said Southeast Quarter, 141.02 feet; thence westerly perpendicular to the east line of said Southeast Quarter, 50.00 feet to a point on the west right-of-way line of Broadway Avenue, and for a point of beginning; thence northerly along said west right-of-way line, 41.00 feet; thence southwesterly with a deflection angle to the left of  $135^{\circ}00'00''$ , 7.07 feet to a point 5.00 feet normally distant west of said west right-of-way line; thence southerly parallel with said west right-of-way line 31.00 feet; thence southeasterly with a deflection angle to the left of  $45^{\circ}00'00''$ , 7.07 feet to the point of beginning and

That part of the Southeast Quarter of Section 32, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the southeast corner of said Southeast Quarter, 269.93 feet; thence westerly perpendicular to the east line of said Southeast Quarter, 50.00 feet to a point on the west right-of-way line of Broadway Avenue, and for a point of beginning; thence northerly along said west right-of-way line, 51.00 feet; thence southwesterly with a deflection angle to the left of  $135^{\circ}00'00''$ , 14.14 feet to a point 10.00 feet normally distant west of said west right-of-way line; thence southerly parallel with said west right-of-way line, 31.00 feet; thence southeasterly with a deflection angle to the left of  $45^{\circ}00'00''$ , 14.14 feet to the point of beginning and

That part of the Southeast Quarter of Section 32, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Commencing at the southeast corner of said Southeast Quarter; thence northerly along the east line of said Southeast Quarter, 344.57 feet; thence westerly perpendicular to the east line of said Southeast Quarter, 50.00 feet to a point on the west right-of-way line of Broadway Avenue, and for a point of beginning; thence northerly along said west right-of-way line, 41.00 feet; thence southwesterly with a deflection angle to the left of  $135^{\circ}00'00''$ , 7.07 feet to a point 5.00 feet normally distant west of said west right-of-way line; thence southerly parallel with said west right-of-way line 31.00 feet; thence southeasterly with a deflection angle to the left of  $45^{\circ}00'00''$ , 7.07 feet to the point of beginning.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 26th day of, July 2011.

**CITY OF WICHITA:**

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Carl Brewer, Mayor

**ATTEST:**

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Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

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Gary E. Rebenstorf, Director of Law

Pawnee and Harry Intersection Project

Acquisition Status

<u>Tract</u>	<u>Property Address</u>	<u>Tract Owner</u>	<u>Take Size</u>	<u>Type</u>	<u>Occupancy</u>	<u>Status</u>
1	2354 S. Broadway	Parvis Moussavi	Part	Car Sales	Owner	
2	2337 S. Broadway	Joe Self	Part	Car Sales	Owner	
3	2400 S. Broadway	Board of Park Comm's	Part	Park	Owner	Closed
4	2323 S. Broadway	Yogesh Bahkta	Part	Motel	Owner	Closed
5	2424 S. Broadway	Michaelis Real Estate #4	Part	Retail	Rental	Closed

**CITY OF WICHITA**  
**City Council Meeting**  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** Acquisition by Eminent Domain of Tracts Required for the Harry and Broadway Intersection Improvement Project (Districts I and III)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real properties.

**Background:** The City Council has approved the design concept and proposed project to improve the intersection of Harry and Broadway. The project will require the acquisition of all or part of eleven tracts. The improvements include adding left turn lanes, improving the sidewalks, improving the storm sewer system and landscaping.

**Analysis:** To date, five tracts have been acquired. Due to the timing of the project, it is necessary to initiate eminent domain at this time. Staff will continue to negotiate with the owners as well continue to work to clear title issues. As agreements are reached or title is cleared, tracts will be deleted from the eminent domain action.

**Financial Considerations:** The cost of these acquisitions will be paid for with General Obligation Bonds.

**Goal Impact:** The acquisition of these parcels is necessary to ensure Efficient Infrastructure in a developed part of the City.

**Legal Considerations:** The City is authorized by law to commence eminent domain proceedings to acquire these properties.

**Recommendation/Action:** Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property; and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisitions.

**Attachments:** Tract list, condemnation resolution and condemnation ordinance.

ORDINANCE NO. 49-044

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE IMPROVEMENT OF THE INTERSECTION OF HARRY STREET AND BROADWAY AVENUE IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the improvement of the intersection of Harry Street and Broadway Avenue in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

That part of Lot 11, Zimmerly's Addition to the City of Wichita, Sedgwick County, described as beginning at southwest corner of said Lot 11; thence north 93 feet; thence east 157.5 feet; thence south 93 feet; thence west 157.5 feet to the place of beginning.

Permanent easements for right of way, public utilities and related uses in and to the following-described tracts, to-wit:

That part of Lot 2, Englishes' 6<sup>th</sup> Addition to Wichita, Sedgwick County, Kansas, described as beginning at the northeast corner of said Lot 2; thence South along the east line of said Lot 2, 28.00 feet; thence northwesterly, 39.40 feet to a point on the north line of said Lot 2, said point being 28.00 feet west of the northeast corner of said Lot 2; thence East along said north line, 28.00 feet to the place of beginning and

The west 7.50 feet of the south 47.00 feet of Lot 9, AND the west 7.50 feet of Lot 10, AND the west 7.50 feet of the north 21.00 feet of Lot 11, Zimmerly's Addition to the City of Wichita, Sedgwick County, Kansas and

That part of Lots 2, 4 and 6, Strong & Roger's Addition to the City of Wichita, Sedgwick County, Kansas, described as beginning at the northwest corner of said Lot 2; thence East along the north line of said Lot 2, 32.50 feet; thence southwesterly, 35.50 feet to a point 25.00 feet

south and 7.50 feet east of the northwest corner of said Lot 2; thence South, parallel with the west line of said Lots 2, 4 and 6, 65.00 feet to the south line of said Lot 6; thence West along the south line of said Lot 6, 7.50 feet to the southwest corner of said Lot 6; thence North along the west line of said Lots 2, 4 and 6, 90.00 feet to the place of beginning and

That part of Lot 11, Zimmerly's Addition to the City of Wichita, Sedgwick County, Kansas, described as beginning at the southeast corner of said Lot 11; thence West along the south line of said Lot 11, 140.00 feet to the east line of a 20 foot alley; thence North along the east line of said alley, 12.50 feet; thence southeasterly 140.33 feet to a point on the east line of said Lot 11, said point being 1.50 feet north of the southeast corner of said Lot 11; thence South along said east line, 1.50 feet to the place of beginning.

Temporary construction easements for driveway, drainage and road construction in and to the following-described tracts, to-wit:

That part of Lots 2 and 4, Englishes' 6<sup>th</sup> Addition to Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 2; thence South along the east line of said Lot 2, 28.00 feet for a place of beginning; thence continuing south along the east line of said Lots 2 and 4, 32.00 feet to the southeast corner of said Lot 4; thence West along the south line of said Lot 4, 7.00 feet; thence North, parallel with said east line, 31.97 feet; thence northwesterly, 31.00 feet to a point 29.03 feet west and 6.00 feet south of the northwest corner of said Lot 2; thence West, parallel with the north line of said Lot 2, 110.97 feet to the west line of said Lot 2; thence North along said west line, 6.00 feet to the northwest corner of said Lot 2; thence East along said north line, 112.00 feet; thence southeasterly, 39.40 feet to the place of beginning and

The east 7.00 feet of Lots 6 and 8, Englishes' 6<sup>th</sup> Addition to Wichita, Sedgwick County, Kansas and

That part of Lots 9, 10 and 11, Zimmerly's Addition to the City of Wichita, Sedgwick County, Kansas, described as beginning at a point 39.00 feet north and 7.50 feet east of the southwest corner of said Lot 9; thence South, parallel with the west line of Lots 9, 10 and 11, 174.00 feet; thence East, 6.00 feet; thence North, parallel with said west line, 75.00 feet; thence northwesterly, 99.15 feet to the place of beginning; TOGETHER WITH the west 7.50 feet of Lot 9, EXCEPT the south 47.00 feet thereof and

That part of Lots 2, 4 and 6, Strong & Roger's Addition to the City of Wichita, Sedgwick County, Kansas, described as commencing at the northwest corner of said Lot 2; thence East along the north line of said Lot 2, 32.50 feet for a place of beginning; thence southwesterly, 35.50 feet to a point 25.00 feet south and 7.50 feet east of the northwest corner of said Lot 2; thence South, parallel with the west line of said Lots 2, 4 and 6, 65.00 feet to the south line of said Lot 6; thence East along said south line, 10.00 feet; thence North, parallel with said west line, 67.86 feet; thence northeasterly, 24.28 feet to a point 34.60 feet east and 5.00 feet south of the northwest corner of said Lot 2; thence East, parallel with the north line of said Lot 2, 110.40 feet to the east line of said Lot 2; thence North along said east line, 5.00 feet to the northeast corner of said Lot 2; thence West along said north line, 112.50 feet to the place of beginning and

That part of Lot 11, Zimmerly's Addition to the City of Wichita, Sedgwick County, Kansas, described as beginning at the southeast corner of said Lot 11; thence West along the south line of said Lot 11, 140.00 feet to the east line of a 20 foot alley; thence North along the east line of said alley, 12.50 feet; thence southeasterly 140.33 feet to a point on the east line of said Lot 11, said point being 1.50 feet north of the southeast corner of said Lot 11; thence South along said east line, 1.50 feet to the place of beginning.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 26th day of, July 2011.

**CITY OF WICHITA:**

\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

PUBLISHED IN THE WICHITA EAGLE ON JULY 22, 2011

RESOLUTION NO. 11-174

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH THE PLANNED IMPROVEMENT OF THE INTERSECTION OF HARRY STREET AND BROADWAY AVENUE IMPROVEMENT PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS;

WHEREAS, the governing body has previously authorized the study and the preliminary design of certain improvements for public right-of-way at the intersection of Harry Street and Broadway Avenue in the City of Wichita; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with improvement of the intersection of Harry Street and Broadway Avenue.

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

SECTION 3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 19th day of July, 2011.  
CITY OF WICHITA:

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



Harry and Broadway Intersection Project

Acquisition Status

<u>Tract</u>	<u>Property Address</u>	<u>Tract Owner</u>	<u>Take Size</u>	<u>Type</u>	<u>Occupancy</u>	<u>Status</u>
1	1552 S Broadway	JoAnne & Kun Lee	Part	Restaurant	Owner	
2	1556 S Broadway	Ronald Cazal, Sr	Full	Retail	Rental	
3	320 E Harry	Lua Van Phan	Part	Retail	Rental	
4	1606 S Broadway	Ultimate Properties	Part	Retail	Rental	
5	1640 S Broadway	Gary Ruedebusch Inc	Part	Retail	Rental	Closed
6	1601 S Broadway	Tommy Lee Cunningham	Part	Car Sales	Rental	
7	1623 S Broadway	Dinning Muriel Trust/Bhakta	TE	Motel	Owner	Closed
8	1611 S Broadway	Maria De La Luz Galindo	TE	Restaurant	Owner	Closed
9	1607 S Broadway	Gary Gehrer Trust	TE	Retail	Rental	Closed
12	211 W Harry	USD 259 Parking lot	TE	Parking	Owner	Closed
11	1531 S Broadway	Midwest Equipment LLC	TE	Retail	Rental	Closed

**Second Reading Ordinances for July 19, 2011 (first read on July 12, 2011)**

**Public Hearing and Tax Exemption Request (Capps Manufacturing, Inc.) (District IV)**

**ORDINANCE NO. 49-033**

An ordinance exempting property from ad valorem taxation for Economic Development purposes pursuant to Article 11, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Capps Manufacturing, Inc., so exempted.

**Public Hearing and Issuance of Industrial Revenue Bonds (Bombardier Learjet) (Districts IV and V)**

**ORDINANCE NO. 49-034**

An ordinance authorizing the City of Wichita, Kansas, to issue its taxable Industrial Revenue Bonds in the original aggregate principal amount not to exceed \$2,564,274.92 for the purpose of providing funds to finance the installation of improvements to certain existing aviation manufacturing and flight testing facilities as well as to finance the acquisition of certain machinery and equipment for such facilities located in the city of Wichita, Kansas; prescribing the form and authorizing execution of a nineteenth supplemental trust indenture by and between the City and the Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri (the “trustee”), as trustee with respect to the bonds; prescribing the form and authorizing the execution of a nineteenth supplemental lease by and between Learjet inc. and the City; approving the form of a guaranty agreement; and authorizing the execution of a bond purchase agreement by and between the City and Learjet inc., as purchaser of the bonds.

**Public Hearing and Approval of a Façade Improvement Project - 1525 East Douglas (District I)**

**ORDINANCE NO. 49-035**

An ordinance levying and assessing maximum special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of internal improvements in the city of Wichita, Kansas, as authorized by resolution no. 11-151 of the city (1525 East Douglas Façade Improvement District).

**Police and Fire Retirement System Proposed Revisions of Charter Ordinance Sections 1 through 40, inclusive.**

**CHARTER ORDINANCE NO. 215**

A charter ordinance of the city of Wichita Kansas, amending Charter Ordinance No. 214 relating to the Police and Fire Retirement System of the City of Wichita and repealing the original of said charter ordinance.

**Wichita Employees' Retirement System Proposed Revisions of City Code Sections 2.28.090 and 2.28.110, and Repealing the originals of said sections.**

ORDINANCE NO 49-036

An ordinance amending Sections 2.28.090 and 2.28.110 of the code of the city of Wichita, Kansas, pertaining to administration of the Wichita Employees' Retirement System, and repealing the originals of said sections of the code of the city of Wichita.

**Ordinance Amending Section 16.04.040 of the Sewer Code – Fees for Private Sanitary Sewer Line Construction, Maintenance and Cleaning Permits.**

ORDINANCE NO. 49-037

An ordinance amending Section 16.04.040 of the code of the City of Wichita, Kansas, pertaining to permit fees for construction, maintenance and cleaning of sewers, and repealing the original of Section 16.04.040 of the code of the City of Wichita, Kansas.

**ZON2011-00011 – City zone change from SF-5 Single-Family Residential to TF-3 Two-Family Residential; generally located north of 47th Street South, midway between Meridian Avenue and the Big Ditch. (District IV)**

ORDINANCE NO. 49-038

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

**SUB2010-00008 -- Plat of Greiffenstein Square Addition located on the south side of 21st Street North, east of 135th Street West. (District V)**

ORDINANCE NO. 49-040

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

City of Wichita  
City Council Meeting  
July 19, 2011

**TO:** Mayor and City Council

**SUBJECT:** SUB2010-00027 -- Plat of Steinke Addition located south of 47<sup>th</sup> Street South on the west side of 151<sup>st</sup> Street West. (County)

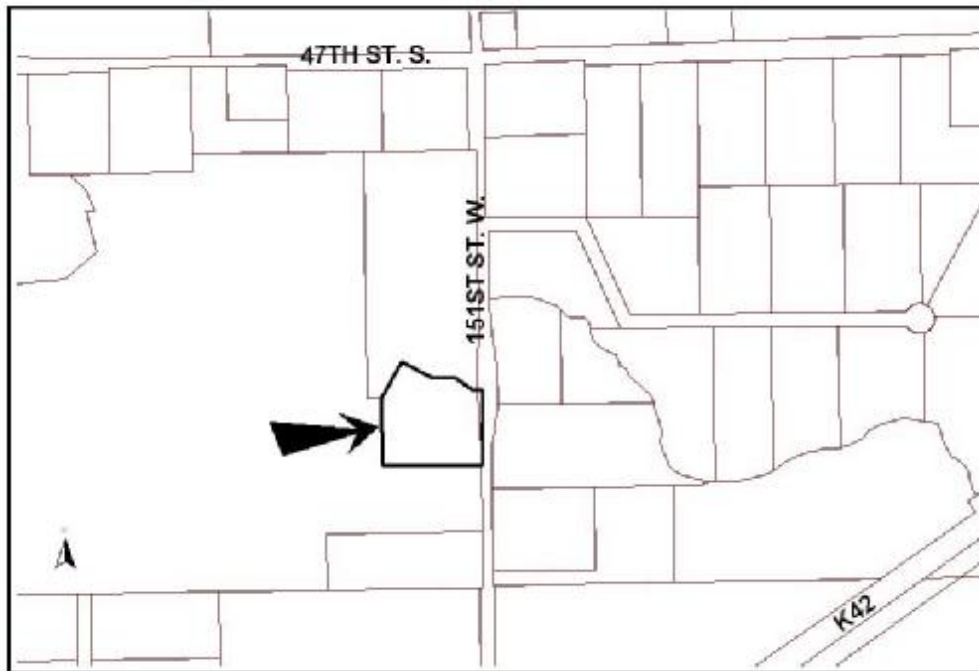
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (10-0)



**Background:** The site, consisting of one lot on five acres, is zoned RR Rural Residential and is located in the County within three miles of Wichita's corporate boundary.

**Analysis:** The site has been approved by County Code Enforcement for the use of on-site sanitary sewer and water facilities. As requested by the City of Wichita Public Works and Utilities Department, a No Protest Agreement for future sewer services has been submitted.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

**Financial Considerations:** There are no financial considerations associated with the plat.

**Goal Impact:** Approval of the plat will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

**Legal Considerations:** The No Protest Petition has been approved as to form by the Law Department and will be recorded by the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the document and plat and authorize the necessary signatures.

**Attachments:** No Protest Petition

### NO PROTEST PETITION

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Wichita, Kansas, party of the first part (hereinafter "City"), and Allen Hatcher and Heather Hatcher, party of the second part (hereinafter "Owner").

WITNESSETH:

WHEREAS, City, at some undetermined time in the future, intends to construct certain public improvements to serve property owned by Owner and property owned by others; and

WHEREAS, That part of the NE1/4 of Sec. 22, T28S, R2W of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northeast corner of said NE1/4; thence S00°10'30"E along the east line of said NE1/4, 1651.92 feet for a place of beginning; thence continuing S00°10'30"E along said east line, 379.27 feet; thence S89°49'30"W, perpendicular to said east line, 500.00 feet; thence N00°10'30"W, parallel with said east line, 335.27 feet; thence N29°26'25"E, 206.99 feet; thence S62°00'00"E, 165.00 feet; thence N89°49'30"E, perpendicular to said east line, 115.00 feet; thence S58°00'00"E, 109.00 feet; thence N89°49'30"E, perpendicular to said east line, 45.00 feet to the place of beginning, containing 5.0 acres, more or less; and

WHEREAS, Owner wishes to plat their property into one residential lot; and

WHEREAS, City wishes to insure that the said real property owned by Owner will be included in the improvement district responsible for that portion of the costs of said future improvement that are to be assessed pursuant to the provisions of K.S.A. 12-6a01 et seq..

NOW, THEREFORE, the parties hereto agree as follows:

1. City shall grant Owner's request to plat their property into one residential lot for said real property, notwithstanding the fact that not all the public improvements normally required to be constructed prior to platting have been constructed.

2. Owner, on his own behalf and on behalf of his heirs, assigns and successors in interest, irrevocably waives his right, pursuant to K.S.A. 12-6a06, to protest the commencement of the construction of

Sanitary sewer mains and laterals by City, but nothing contained herein shall be deemed to be a waiver by Owner of his right to challenge, pursuant to K.S.A. 12-6a11, the reasonableness of the portion of the cost of said construction assessed against Owner's said real property.

3. A copy of this agreement shall be recorded with the Register of Deeds and the promises herein made by Owner shall constitute covenants running with the land described herein.

IN WITNESS WHEREOF, said parties have set their hand this 12 day of March, 2011.

Owners:

CITY OF WICHITA

Allen Hatcher  
Allen Hatcher

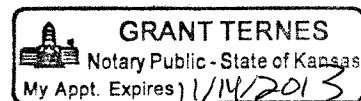
By \_\_\_\_\_  
Carl Brewer, Mayor

Heather Hatcher  
Heather Hatcher

STATE OF KANSAS)  
SEDGWICK COUNTY) SS

This instrument was acknowledged before me this 12<sup>th</sup> day of March, 2011, by Allen Hatcher and Heather Hatcher.

Grant Ternes, Notary Public  
(signature of notary officer)



My appointment expires: November 14, 2013.

STATE OF KANSAS)  
SEDGWICK COUNTY) SS

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by Carl Brewer, Mayor, on the behalf of the City of Wichita.

\_\_\_\_\_, Notary Public  
(signature of notary officer)

My appointment expires: \_\_\_\_\_, 20\_\_\_\_.

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law